

Building Safety update

Purpose of report

For discussion.

Summary

This report updates Fire Services Management Committee members 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.

Actions

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

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Building Safety update

Summary of events since the previous meeting

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. The Joint Inspection Team has resumed inspections. The [Building Safety Bill](#) has been published in draft form and is now subject to pre-legislative scrutiny by the Housing Communities and Local Government Select Committee. The [Fire Safety Bill](#) has passed its third reading in the House of Commons and has now been introduced in the Lords. The LGA is participating in an officer-level task and finish group looking at the timing of the Bill's commencement. A [consultation](#) on measures to be included in secondary legislation under the Fire Safety Order, including the implementation of recommendations from the Grenfell Tower Inquiry, has been published.

Remediation

Progress

2. In the three years since Grenfell Tower fire fewer than half the 458 buildings with dangerous aluminium composite material (ACM) cladding systems have been fully remediated; nearly a fifth have yet to even begin work.
3. As reported to the Fire Commission last month, between the end of April and the end of July only 6 social sector buildings and 1 private building had completed remediation work. No new remediation work had begun in the social sector and only 8 buildings had started remediation in the private sector.
4. Covid-19 was a factor in this. At the end of July work on 19 buildings remained paused while work on a further 60 had restarted after being interrupted (work on 50 buildings had not been interrupted by Covid-19 and the position on 19 was unknown).
5. [MHCLG statistics](#) show that 14 private sector blocks began work in August and 3 of those previously underway finished work. 1 social sector block began work and five completed.
6. While this is an improvement compared to previous months, progress on remediation remains worryingly slow in the private sector. Remediation has finished on 83 of the 155 social sector blocks, the cladding has been removed from or work has started on 63 and a further 9 have plans in place. However, only 32 private high-rise residential buildings with ACM have completed remediation. A further 177 buildings are yet to be remediated; of these, 88 have not begun work

7. These figures are placed in a very worrying context by the early data on non-ACM remediation. MHCLG has now begun publishing statistics on [applications to the non-ACM remediation fund](#). The headline figures are that 2,784 buildings have registered for the fund. The department is assessing their eligibility and by 25th September 2020, 138 decisions had been made, with 65 proceeding with a full application and 73 shown to be ineligible and withdrawn by registrants. Reasons for ineligibility include height, no leaseholders present or social housing where owners do not meet criteria – in other words it is likely that nearly 3,000 buildings have non-ACM cladding systems requiring remediation.
8. The Government is funding most ACM removal, but its £1 billion non-ACM cladding fund is being operated on a first-come-first-served basis and is likely to cover only about one third of cases. Councils are struggling to access it and the Ministry has been clear that the fund is only supposed to help social housing providers if they would face financial viability issues without that help (these were asked to register with the fund prior to 31 July).
9. There is a separate Social Sector Grants element of the Building Safety Fund for funding equivalent to the value of remediation work *which would otherwise be charged to leaseholders in those buildings*. This grant funding is specifically for social sector providers whose remediation costs are *not* deemed unaffordable or a threat to financial viability. The deadline for claims is 31 December 2020. Funding guidance and supporting documents can be downloaded [here](#). Any questions can go directly to the team via BSFsocalsector@communities.gov.uk.
10. The LGA has already criticised these funding arrangements and will continue to call for central government to cover social sector remediation costs in full.
11. While councils' and fire authorities' overriding concern will be the safety of residents, those living in the affected blocks face mounting costs from interim fire safety measures such as waking watch. There is growing evidence (for example [here](#) and [here](#)) that increasing numbers of residents in high rise blocks are finding it difficult or impossible to sell, re-mortgage or staircase due to the reluctance of finance companies to lend money without the provision of an EWS1 form (which certifies that the cladding system is safe), the shortage of surveyors able to sign off EWS1 forms and the reluctance of the insurance industry to provide those who can do the work with professional indemnity insurance. There is also evidence that building insurance costs are rising. Not only are these issues this slowly bankrupting leaseholders, if unchecked they must sooner or later have a negative effect on the housing market.
12. The best solution to all of these problems is to remove unsafe cladding systems. However, at the current rate that will take around 20 years and, in the meantime, there is a significant risk of psychological problems for all residents, financial problems for

leaseholders and a possible knock-on effect to the economy without government intervention.

13. The Minister wrote to councils with buildings that have no plan to start remediation work this year on 31 July 2020 asking them to consider enforcement action. He also wrote to building owners and fire services. He wants to see fire services and councils taking a case-conferencing approach to these buildings.

Joint Inspection Team

14. As members will recall the LGA is hosting the Joint Inspection Team (JIT) to support councils to use their enforcement powers under the Housing Act and the Housing Health and Safety Rating System.
15. The team has resumed inspections following a hiatus caused by covid 19 and has recruited its full complement of staff. It is inspecting roughly two buildings a month, twice the previous rate. At the time of writing the JIT has inspected 11 buildings in total and has several other inspections pending. A number of improvement notices have been issued by the local authorities that have been supported by the team. No tribunal hearings have taken place as yet.

Data collection on external wall systems

16. 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 – one that has been exacerbated by Covid-19 issues. We understand that 25 per cent of the data remains uncollected.
17. MHCLG is also looking at how to collect data on buildings between 11m and 18m. No easy way to do this has been identified so far.

Public Accounts Committee Report

18. The Public Accounts Committee has now [reported](#) on the progress of remediation. The LGA's written evidence, which was essentially the same as that submitted to the Housing Communities and Local Government (HCLG) committee, and which the Committee received an update on at its last meeting.
19. The committee has recommended that MHCLG should:
 - 19.1. within six months: a) be working with the new Building Safety Regulator to begin vigorous enforcement action against any building owners whose remediation projects are not on track to complete by the end of 2021; and b) begin publishing monthly updates of projected completion dates for all remaining high-rise buildings

- with ACM cladding, to increase transparency of progress without identifying individual buildings.
- 19.2. within three months: a) publish its impact assessment of the safety risks and financial impacts on private leaseholders and social landlords (including knock-on impacts on house building and maintenance of existing stock) arising from only funding a fraction of the estimated costs of replacing non-ACM cladding from high-rise blocks; and b) write to the Committee, outlining its assessment of the risks to public money of committing all £1 billion of the Building Safety Fund by the end of March 2021, and how it will monitor and mitigate these risks.
 - 19.3. working with the Care Quality Commission and local authorities, should make it a priority for its forthcoming data collection exercise to identify any care homes below 18 metres which have dangerous cladding. The Department should write to the Committee by the end of 2020 setting out progress on this and on its wider data collection.
 - 19.4. write to the Committee within three months, setting out what specific steps it will take to provide greater transparency for residents throughout the application and remediation process, and how it will ensure that building owners meet a standard of service in communication with residents.
 - 19.5. ensure that cross-sector work to resolve issues with the External Wall Fire Review process progress at pace. As part of this cross-sector work, the Department must ensure that professionals can acquire indemnity insurance, and leaseholders are not facing escalating insurance premiums. The Department should write to the Committee within three months setting out its assurance that these processes are operating effectively.
 - 19.6. within the next three months, assess the capacity of specialist fire safety skills within the sector and set out what the impact is on delivery of its timetables for the removal and replacement of unsafe cladding. It should include in this assessment options to tackle the skills shortage so that this does not become a barrier to remediation work continuing at pace.
20. The LGA's [response](#) to the report urged the Government to act on its recommendations without delay.

Updated NFCC guidance on simultaneous evacuation

21. On 1 October the National Fire Chiefs Council (NFCC) launched updated [guidance on simultaneous evacuation](#), which:
- 21.1. advises consultation with residents and leaseholders to explore cost/benefit options.

- 21.2. emphasises the need to consider the installation of common fire alarms where measures are now, or are likely to be in place for the longer term.
- 21.3. provides a clear distinction between waking watch and evacuation management as separate roles.
- 21.4. emphasises that residents can carry out waking watches and/or evacuation management duties so long as they are appropriately trained.
- 21.5. It also provides new definitions:
 - 21.5.1. Short-term: the time required to formulate a longer-term remediation plan, as soon as practically possible and no longer than 12 months; and
 - 21.5.2. Temporary: non-permanent measures implemented to mitigate an unacceptable risk in a building, as an interim measure, adopted for the safety of residents while works to rectify the identified fire safety failings are carried out.

Fire Protection Board

- 22. As members will recall, the Home Office has established the Fire Protection Board, membership of which includes the LGA and NFCC. The Board oversaw 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.
- 23. The Board is now overseeing a wider programme of reviewing the risk in other buildings over 18m. Letters detailing this work went to CFOs with copies to Fire and Rescue Authority Chairs earlier this summer. This work is ahead of trajectory.
- 24. To support the work of the Board, £10 million 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 (£20 million).

Reform

Fire Safety Bill

- 25. The Bill has now passed its second reading in the House of Lords. The LGA has welcomed the Bill.
- 26. The Bill will require Responsible Persons to review their fire risk assessments. This should be relatively straightforward where the building has no cladding system (EWS) or where the duty-holder has evidence to show that the cladding system is safe. However, where a more complex review is necessary, those currently undertaking fire risk assessments are unlikely to have either the specific competence or the professional indemnity insurance to cover EWS.

27. The Home Office has established a task and finish group on the commencement of the Bill. Officers of the LGA and NFCC are on this group, as are a number of other stakeholders including the Fire Sector Federation and the Fire Industry Association. The Group has made recommendations to the Home Office on how to commence the Bill in a way that does not leave duty-holders unable to meet their obligations and we anticipate that the Government will take these forward. This is likely to involve statutory guidance.

Fire Safety Consultation

28. The Government is consulting on proposals to:

- 28.1. strengthen the Regulatory Reform (Fire Safety) Order 2005 and improve compliance.
- 28.2. implement the Grenfell Tower Inquiry Phase 1 Report recommendations that require a change in law to place new requirements on building owners or managers of multi-occupied residential buildings, mostly high-rise buildings.
- 28.3. strengthen the regulatory framework for how building control bodies consult with Fire and Rescue Authorities and the handover of fire safety information.

29. The consultation closes on 12 October. A draft of the LGA's response has been circulated to lead members of the FSMC, other relevant LGA boards and the Grenfell Task and Finish Group.

Building Safety Bill

30. The Bill was published in draft form before the summer recess and is to be subject to pre-legislative scrutiny by the HCLG committee.

31. The Bill establishes a building safety regulator within the Health and Safety Executive (HSE) to:

- 31.1. Implement the new, more stringent, regulatory regime for higher-risk buildings.
- 31.2. Oversee the safety and performance of all buildings.
- 31.3. Assist and encourage competence among the built environment industry, and registered building inspectors.

32. The implementation of the new regime will see the HSE, councils and fire services form a new, close relationship as council building control services and fire services deliver the regime for higher-risk buildings (Environmental Health services may also be involved). It leaves the HSE and local regulators to work out the practical details but places all three under a duty to cooperate and gives the HSE the power to direct councils and fire services. The latter power is to be used only in exceptional circumstances and the Bill provides safeguards to prevent it becoming a default option.

33. In practice the regime for higher-risk buildings is expected to involve multi-disciplinary teams not dissimilar to the Joint Inspection Team which LGA currently hosts and MHCLG funds.
34. The HSE is very keen to engage with the sector and we are facilitating this. Although we have a very good relationship with the HSE, the scale of reform and its complexity make engagement a challenge.
35. In addition, the LGA and Local Authority Building Control are represented on the Joint Regulators Group, an HSE-chaired body advising on policy and implementation, which has been working on the issue for a couple of years.
36. The LGA's evidence to the committee argues that, subject to the necessary secondary legislation being passed and sufficient funds provided - the Bill provides the strong regulatory system needed to deliver an effective system of building safety. Nevertheless, the LGA has expressed the following concerns:
- 36.1. The difficulty of funding building safety measures without bankrupting leaseholders.
 - 36.2. The conflict between the new building safety system and the Government's planning white paper.
 - 36.3. The scope of the Bill, the speed at which its scope can be expanded and the constraints on its expansion.
 - 36.4. How the charging provisions in the Bill will work and set-up costs for the Building Safety Regulator.
 - 36.5. The alignment of this Bill with the Fire Safety Bill.
 - 36.6. The adequacy of the product safety provisions.
 - 36.7. The limited removal of competition in building control.
37. Lord Porter gave [evidence](#) to the committee on behalf of the LGA on 21 September.

Letter to Minister

38. The lead members of the Fire Services Management Committee wrote to Lord Greenhalgh, the Minister for Fire and Building Safety, to ask that officials discuss with the LGA measures to ensure that extension of Permitted Development Rights does not undermine fire safety. The letter is attached at **Appendix A**.

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, and the LGA has been keeping in contact to ensure the WLGA is kept informed of the latest developments in England.

Financial Implications

40. 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

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