

## **Building Safety Bill**

### **Purpose of report**

For discussion.

### **Summary**

This report updates FSMC members on the LGA's work around the Building Safety Bill since its last meeting. Peter Baker from the Health and Safety Executive (HSE) will be attending the meeting for this item to outline how the HSE sees the future relationship of the new Building Safety Regulator and Fire and Rescue Authorities.

#### **Recommendation**

That members note and comment on the LGA's work in relation to the Building Safety Bill.

#### **Actions**

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

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## **Building Safety Bill**

### **Background**

1. The Building Safety Bill establishes a building safety regulator within the HSE to:
  - 1.1. Implement the new, more stringent, regulatory regime for higher-risk buildings (defined as residential buildings over 18m).
  - 1.2. Oversee the safety and performance of all buildings.
  - 1.3. Assist and encourage competence among the built environment industry, and registered building inspectors.
2. 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.
3. In practice the regime for higher-risk buildings is expected to involve multi-disciplinary teams, not dissimilar to the Joint Inspection Team which the LGA currently hosts.
4. Details of how the new building safety regime will work, and the role of Fire and Rescue Authorities in it alongside the building safety regulator, are set out in **Annex A**.
5. The first stage of the new regime is expected to be the introduction of legislation next spring to amend the Town and Country Planning Act 1990 to make the building safety regulator a statutory consultee in planning applications for buildings in scope, requiring the provision of a fire statement and engaging developers at an early stage in the process.
6. The LGA's evidence to the Housing, Communities and Local Government Committee's pre-legislative scrutiny of the Bill argued 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:
  - 6.1. The difficulty of funding building safety measures without bankrupting leaseholders.
  - 6.2. The conflict between the new building safety system and the Government's planning white paper.
  - 6.3. The scope of the Bill, the speed at which its scope can be expanded and the constraints on its expansion.

- 6.4. How the charging provisions in the Bill will work and set-up costs for the Building Safety Regulator.
  - 6.5. The alignment of this Bill with the Fire Safety Bill.
  - 6.6. The adequacy of the product safety provisions.
  - 6.7. The limited removal of competition in building control.
7. Lord Porter gave [evidence](#) to the Committee on behalf of the LGA on 21 September.
  8. The Committee's [recommendations](#) reflect the LGA's concerns to a large extent. The Committee called for the Government to:
    - 8.1. ensure costs are not passed on to leaseholders.
    - 8.2. ensure Gateway One is not undermined by expansion of permitted development.
    - 8.3. indicate its intention to review the scope and set a timetable for doing so and to consider the vulnerability of residents in the review.
    - 8.4. publish with the Bill the details of the charging regime that the regulator will operate to fund its regulatory functions, where cost recovery is practical, and commit unequivocally to ringfenced central funding to cover the cost of functions for which cost recovery will not be possible.
    - 8.5. publish statutory guidance alongside the Bill outlining how it expects accountable persons and responsible persons to co-operate in practice. In the long term, the Committee recommends that the Government review the operation of the two regimes with a view to rationalising and simplifying the legislation.
    - 8.6. publish with the Bill its proposals for improving the product testing regime and recommended that the Government provide for the publication of test failures and re-run tests and for the establishment of an independent and unified system of third-party certification in order to introduce greater transparency and rigour into the regulation of construction products.
    - 8.7. remove dutyholder choice entirely from the building control system and replace it by a system of independent appointment.
  9. At the FSMC meeting members will receive a presentation from Peter Baker of the HSE on the HSE's work to establish the Building Safety Regulator (BSR). It is suggested that the main areas of interest for FSMC members might be:
    - 9.1. The expected timescale of implementation.
    - 9.2. What are the demands on Fire and Rescue Authorities (FRAs) likely to be under the new regime?
    - 9.3. What can FRAs do now to prepare for and support implementation?
    - 9.4. How will BSR priorities affect the IRMP process?
    - 9.5. The Bill allows for the BSR to charge dutyholders and FRSs to recoup costs from the BSR – will this work?
    - 9.6. Who is liable for FRS work for the BSR - the BSR or the FRA?

9.7. How do we re-equip FRSs to perform a protection role for high rise residential buildings?

10. Many of these questions will not yet have answers as the implementation process is only at an early stage.

### **Implications for Wales**

11. 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**

12. The work arising from this report will continue to be delivered within the planned staffing budget. A key objective in the LGA's work going forward will be to ensure that Fire and Rescue Authorities and councils are able to recover their costs from the regulatory work they do with the BSR.

### **Next steps**

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