

## **Building Safety Update paper**

### **Purpose of report**

For information.

### **Summary**

This report updates members on the LGA's building safety related work.

#### **Recommendation**

That the Board note the update

#### **Actions**

Officers will take action as directed

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## **Building Safety Update Paper**

### **Remediation**

#### *Progress*

1. [MHCLG statistics](#) show that by 31 December 2020, 90% (417) of all identified high-rise residential and publicly owned buildings in England had either completed or started remediation work to remove and replace unsafe Aluminium Composite Material (ACM) cladding (93% of buildings identified in December 2019) – an increase of 31 buildings since the end of November 2020, the highest monthly increase in 2020. During 2020, 159 buildings started works, compared to 90 in 2019 and 111 in 2018
2. The pace of ACM remediation continues to be slow – 257 buildings (56% of all identified buildings) had had their ACM removed by the end of October. At the end of April 2019 remediation was complete in 22 per cent of buildings, now it is 44 per cent. Of the 202 buildings that had completed work by the end of last month, 22 finished in September and 13 in October. This is an improvement on recent months, reflecting both the increased pressure from the Minister and the resumption of work that had stopped as a result of Covid.
3. Of the 156 social sector residential blocks with ACM, 90 have completed work and 66 have begun work. This is the first time that there have been no social sector residential buildings waiting to start work.
4. In the private sector 64 have completed, 112 have begun and 38 have yet to begin. In addition, 44 Student blocks have completed with 10 underway and none yet to begin.
5. While these statistics suggest a positive direction of travel ACM buildings represent around a sixth of the total number of buildings over 18m with dangerous cladding and the improved rate is the result of significant official effort and ministerial pressure on owners.

#### *Joint Inspection Team*

6. Discussions on the future of the JIT continue with MHCLG. Our expectation is that the team will continue working next year with a remit that expands to cover non-AM dangerous cladding.
7. The team's inspections are currently suspended due to Covid. This is under constant review.

*Fire Protection Board*

8. The Building Risk Review programme overseen by the Board, is ahead of its target schedule to ensure all residential buildings over 18m have been assessed or inspected by the end of 2021.
9. The LGA is sought clarity over the extent to which the funding from MHCLG and the Home Office during 2020-21 to provide a protection uplift, implement Grenfell Tower Inquiry findings and support the FPB's work will continue into 2021-22.
10. The Fire Protection Board in December was told that:
  - 10.1.1. The Home Office has received a 5% increase on baseline funding, with some funds already secured subject to Ministers' agreement.
  - 10.1.2. There will be additional funding to underpin the national work on Protection and the local work on delivering and enhancing Protection services, however, more work is needed to the appropriate level of resourcing and disaggregation based on spending and deliverables from the 2020-21 financial year.
  - 10.1.3. The data from Q2 showed that only 6% of funding for FRSs had been spent, but there is flexibility at the end of the year for FRSs to roll over any unspent funds.

*Waking watch relief fund*

11. In December the Government announced that it would provide £30m to cover the cost of installing fire alarms in buildings that currently have a waking watch because they have dangerous cladding.
12. The fund was launched on 31 January, it applies to private sector buildings over 18m<sup>1</sup> in England only. To be eligible a building must have an unsafe cladding system with a waking watch in place where these costs have been passed on to leaseholders.
13. Social sector buildings where the Registered Provider can evidence that waking watch costs have been passed to leaseholders and the costs of installing an alarm will fall on leaseholders will also be eligible.
14. The fund will only cover the cost of alarms installed on or after 17 December 2020.
15. There will be a staged roll out of the fund with a six-week period in which applications must be made. This begins on 31 January 2021 and ends on 14 March 2021 for all buildings except private sector buildings in London, where arrangements for administering the fund have yet to be completed.

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<sup>1</sup> Actually, over 17.70m in height when measured according to diagram D6 of Approved Document B (Annex A).

16. Installation costs that are above a £1500 per dwelling threshold will require additional scrutiny and may require additional evidence from the applicant to show whether the costs are necessary and reasonable.

17. £22 million of the £30 million funding available has been allocated to the eight metropolitan areas estimated to have the largest number of eligible buildings across England based on [Building Safety Fund: registration statistics](#) with adjustments made to account for social sector funding. These allocations are:

<b>Local/Combined Authority</b>	<b>Allocated Funding (£m)</b>
Greater London	16.1
Greater Manchester	2.1
Birmingham	1.1
Leeds	0.7
Liverpool	0.5
Bristol	0.5
Newcastle	0.5
Sheffield	0.5
Total	

18. In Manchester the Combined Authority will administer the fund; in London the GLA is expected to take on the role. In the other six areas local authorities have agreed to administer it.

19. The remaining £8 million of the fund will be centrally administered and is available to buildings across all other areas of England.

20. Guidance and application forms are available [here](#).

21. The fund has been developed very quickly. While this has drawbacks (e.g. it is not large enough to meet demand) it is understandable given that delivering the fund quickly is essential if it is to be of any value.

22. LGA was consulted by MHCLG as part of its development of the fund. However, MHCLG tended to discuss the matter directly with the councils involved. At the time of writing the greater difficulty posed by administering the fund in London has not been overcome.

## **Reform**

### *PAC report response*

23. Although MHCLG was due to respond to some of the PAC recommendations by the end of January. It has not done so. This is probably a result of the diversion for resource to establishing the Waking Watch Relief Fund.

### *Building Safety Bill*

24. The Government has yet to respond to the HCLG Select Committee's pre-legislative scrutiny of the Bill. This was supposed to be done in January but has slipped slightly. We anticipate publication shortly.

### *Gateway One*

25. Gateway One, which takes place at the planning stage and requires developers to produce a fire statement in relation to high risk buildings, is to be introduced via amendments to planning regulations and we anticipate its introduction in June. We have previously raised concerns regarding the effect of planning reform on this proposal and understand the Government intends to address these.

26. Regulations were introduced over the Christmas period that apply where a developer wants to use a Permitted Development Right (PDR) to extend a block of flats upwards to create new flats. The change adds a requirement to ensure that any necessary remediation has been done to the external walls before the developer can use the PDR, but applies only where the building is over 18m before the extension. We are taking this up with the department.

### *Product safety*

27. On 19 January the Government announced that the Office for Product Safety and Standards (OPSS) will be the new construction product safety regulator. It will have the power to remove any product from the market that presents a significant safety risk and prosecute any companies who flout the rules on product safety. Its enforcement powers will include the ability to conduct its own product-testing when investigating concerns.

28. OPSS will be expanded and given up to £10 million in funding to establish the new function. It will work with the Building Safety Regulator and local authority Trading Standards to encourage and enforce compliance, building on the current work OPSS do with local authorities on product safety surveillance.

29. The government has also commissioned an independent review to examine weaknesses in previous testing regimes for construction products, and to recommend how abuse of the testing system can be prevented. It will be led by a panel of experts with regulatory,

technical and construction industry experience and will report later this year with recommendations.

30. LGA officers have discussed this proposal with ACTSO and will be discussing these developments with MHCLG and OPSS shortly.

#### *Fire Safety Bill*

31. The Bill has yet to return to the House of Commons for the start of ping pong. The latest estimate we have is that it will commence in late April. The delay is believed to be related to the concerns MPs have about the costs to leaseholders of remediating dangerous buildings.
32. According to the latest Government comments in the House of Commons this issue is going to be addressed through the Building Safety Bill and the amendments to the Fire Safety Bill that would protect leaseholders will be opposed. This approach would make it difficult to take enforcement action under the Fire Safety Act until the Building Safety Bill was passed. Officers are raising this issue with the Home Office.
33. A working group is looking at the development of guidance to come into force alongside the Bill in order to mitigate the shortage of fire risk assessors. NFCC has developed a prioritisation tool. The Guidance will ensure that use of the tool will provide owners with legal protection. The work on the guidance is ongoing. The group devising the guidance, which includes LGA, NFCC, Home Office and MHCLG will also look at enforcement under the Bill, although this work may transfer to the Steering Group of the Fire protection Board.

#### *Barking Fire Review*

34. An independent [review](#) by Sir Steve Bullock and Diarmaid Ward of the fire at Samuel Garside House in Barking in 2019 has been published – it identifies communication with residents; complexity of ownership; the role of the council and the arbitrariness of height-based regulation as key issues.
35. The review argues that ‘the responsibilities which each party, including residents themselves, would have in the event of a serious incident had not been clearly explained’. This was exacerbated by lack of a residents’ forum in the building and ‘therefore no clear channel for engagement other than with residents as a whole’ and by the ‘complex ownership of Samuel Garside House and the individual units within it’ (set out on page 12 of the report), which meant that ‘individual residents could find it difficult, particularly in the aftermath of the fire, to work out to whom they needed to address their questions and concerns’ – an issue common to many blocks now.

36. It concludes that 'the local authority... set up the emergency response arrangements ...very quickly and well in our view. However, the multiplicity of other organisations involved with the building quickly became a concern and continued to cause some problems in the following weeks. In the first few days communication was a particular problem, with residents becoming frustrated about their inability to get answers to their questions. The council was the only organisation able to provide overall coordination and leadership even where this went beyond their statutory role'.
37. In addition, the authors highlight:
- 37.1. 'residents greatest concern has probably been the difficulty of resolving issues around helping them to get back into permanent accommodation'.
  - 37.2. Poor performance of the insurers: 'at one point the Council Leader felt it necessary to seek ministerial help to get the insurers to act with appropriate speed'.
  - 37.3. The decision by Bellway Homes to undertake [remedial] work was taken quickly and willingly in response to the fire. As concerns have arisen about building after building in the aftermath of the fire at Grenfell, that approach has sometimes been conspicuous by its absence elsewhere.
38. The report makes the following recommendations:
- 38.1. Organisations which provide housing for rent or own leases of residential units, together with those that manage residential buildings or provide ancillary services, in the context of the Grenfell Tower fire should **review their plans for dealing with emergencies to take into account the heightened concerns of residents** and the subsequent action in relation to the dangers arising from the use of certain types of cladding and action around fire safety more generally.
  - 38.2. Any organisation which has responsibility for the management and safety of a building which includes residential units should **review the way in which it communicates with residents and involves them in the management** and overseeing of issues including, but not limited to, the safety of the building.
  - 38.3. Subject to the final provisions of the Building Safety Bill when enacted, local authorities should have **enhanced enforcement powers for buildings below 18 metres** which match those of the Building Safety Regulator for buildings over 18 metres.
  - 38.4. Local Authorities should have the power to declare a **'Local Housing Emergency'** situation for an initial 30 days during which they can take all necessary actions, including to reclaim costs incurred from the responsible building owners. Such powers to be exercised directly by the Local Authority or through another organisation appointed by the Local Authority to work on its behalf.
  - 38.5. Freeholders should lodge a **'Statement of Ownership'** with the Land Registry **setting out the organisations which hold leases and subleases down to, but**

**not including, leases for individual properties** and indicating the ultimate ownership of those organisations. This should be updated whenever a lease is transferred.

38.6. All residents should receive an **annual statement of responsibilities for their home and the building** of which it is part. This would include the following:

38.6.1. Contacts, day-to-day and emergency, for both internal issues in the case of renters and external issues for all.

38.6.2. Information about what will happen in the case of an emergency such as a fire requiring evacuation of the building for a significant period of time and knowing who will provide temporary accommodation and other support to any displaced residents. If this is to be provided by an insurance policy, contacts for the insurer should be included.

38.6.3. The responsibility of residents for the maintenance of their own homes and that responsibility in relation to common areas as set out in the relevant leases should be made clear. Residents should be provided with guidance in relation to insurance cover, which makes clear that the building insurance does not cover loss of contents in any circumstances and therefore it is necessary for them to arrange for contents insurance themselves.

38.7. Planning authorities should include a requirement to carry out the provision of 5 and 6 above as part of the S106 agreement for all new multi-unit developments.

39. These recommendations were discussed by the LGA's Grenfell Task and finish Group earlier this month and the group recommended that the LGA endorse the report's recommendations and promote them.

### **Other matters**

40. The LGA has published its position statement on [leaseholder costs](#) and has published advice for councillors on [supporting residents with cladding issues](#).

41. Grenfell United [has launched legal action](#) against MHCLG, Home Office, RBKC, KCTMO, LFB, Arconic and others.

42. The Welsh Government is consulting on its [building safety proposals](#). It appears to mirror the English Building Safety Bill, but to be possibly be more rigorous in relation to buildings below 18m. This is relevant to some of the points made in the paper on recent report, to be discussed at the meeting. Officer will seek the views of the WLGA and report back to the Group.

43. The cross-party Fire, Resilience and Emergency Planning Committee of the London Assembly has published a report on the [Cladding Crisis and its Impact on Londoners](#).

### **Implications for Wales**

44. 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**

45. 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**

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