

EEHT Update paper

Purpose of report

For information.

Summary

This paper provides updates on a range of issue within the remit of the Board

Recommendation

That the Board note the update

Actions

Officers will take action as directed

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EEHT Update Paper

Queen's Speech

1. The Queen set out the Government's agenda for the next Parliamentary session on the 11 May 2020. The Speech contained many measures that will be of relevance to councils. The LGA's On the Day briefing is appended to this update paper.

Environment and Climate Change

Climate Change Task Group

2. Following discussions at the Executive Advisory Board, it was decided that an open-ended Climate Change Task Group was to be established to steer the strategic engagement with Government on climate change matters in this COP 26 year and beyond. The first meeting was held in April where we invited Yunus Arian, Director of Global Advocacy at Local Governments for Sustainability (ICLEI). He provided an update about the progress of their political negotiations and opportunities to work with ICLEI and other local government bodies. The second meeting took place on 17 May.

Low carbon infrastructure business case

3. The LGA has commissioned WPI Economics to produce a robust and credible business case that sets out the economic, social and environmental benefits for investing in councils to deliver local low carbon infrastructure. We believe it will contribute to the development of a robust evidence base that strengthens our lobbying on climate change and a green recovery. The work is expected to be completed in the summer.

Green finance

4. In December 2020, Local Partnerships produced the guide '[Financing Green Ambitions](#)' on behalf of the LGA which was supported with a webinar. Since its launch, Government policy in relation to green finance has evolved, particularly in regard to the remit and role of the Infrastructure Bank and a number of sources of grant funding. The LGA is seeking to update the report and deliver another webinar.

Housing, Planning and Homelessness

Right to Buy

5. Following many years of lobbying and recent intensive discussions with MHCLG and Treasury, the government announced in March a series of right to buy reforms to give councils increased flexibilities to build more homes. This included: extending the time councils have to spend Right to Buy receipts from three to five years; an increased cap in the percentage cost of new homes councils can fund from Right to Buy receipts, raised from 30% to 40%; and allowing receipts to be used for shared ownership, First Homes, as well as affordable and social housing. Alongside this, the government also introduced a cap on the use of Right to Buy receipts for acquisitions. We will be working

closely with councils to monitor the impact of the reforms, including the acquisitions cap, on the delivery of new homes.

First Homes

6. The LGA and DCN organised a joint session with MHCLG and Homes England on 13 April at which they discussed the [First Homes scheme](#). At the session MHCLG and Homes England outlined to over 150 local authority attendees how First Homes will be delivered through the planning system, how the 1,500 unit pathfinder programme will work and how the First Homes scheme will operate. The LGA [responded to the First Homes consultation last year](#).

Right to regenerate: reform of the Right to Contest

7. We [responded](#) to the government's 'Right to regenerate' [consultation](#). In our response we made clear that any reforms need to ensure that councils can continue to take a strategic approach to re-use and release of assets that they own. We opposed proposals that would allow the government to order sales of land where temporary uses cannot be identified for unused land which has an intended future use. We await the government's response to the consultation responses.

Affordable housing small sites threshold

8. The government has [confirmed](#) that it will not, at this stage, be introducing a proposed measure to temporarily lift the small sites threshold below which developers do not need to contribute to affordable housing, to up to 40 or 50 units. We strongly lobbied against this measure, including this [analysis](#) of the potential impact, which we press released in October. We raised that councils must have sustainable funding streams, resources and flexibilities under local leadership to decarbonise buildings.

Future Building Standards consultation

9. We [responded](#) to the government's consultation on the Future Buildings Standard. It builds on the Future Homes Standard, which [we also responded to](#), by setting out energy and ventilation standards for non-domestic buildings, existing homes and includes proposals to mitigate against overheating in residential buildings. We welcomed the government's second stage of proposals for non-domestic and domestic standards that will support achieving the UK's commitment to bring all greenhouse gas emissions to net zero by 2050. We also said that councils must have sustainable funding streams, resources and flexibilities under local leadership to decarbonise buildings.

Government inquiry on Local Government and the path to net zero

10. We responded to the HCLG Committee's [inquiry on Local Government and the path to net zero](#). The inquiry will scrutinise the Government's plans to make all new homes "zero carbon ready" by 2025 through the introduction of the Future Homes Standards, and to explore how local government can help achieve net zero by 2050. We responded that local government plays a leading role in accelerating the shift towards achieving net zero carbon and that council staff and local areas will need to have the capacity and skills to be able to deliver on this work.

Planning consultations and inquiries

11. The Government sought views on [draft revisions to the National Planning Policy Framework \(NPPF\) and draft National Model Design Code \(NMDC\)](#) as part of the planning reforms. The NMDC is meant to provide a clear framework for local authorities to follow to produce their own local codes and guides. The NPPF clarifies that all areas should produce their own codes or guides, based on the principles set out in the NMDC. [We responded that](#) whilst we support an increased focus on design, we continue to have concerns that fast-tracking development deemed ‘beautiful’ may not lead to quality homes and places communities. We said that introducing the NMDC and updating the NPPF is premature because the Government has not yet responded to the Planning White Paper consultation responses.
12. The HCLG Committee [held an inquiry to examine the Government’s recent and proposed changes to Permitted Development Rights \(PDR\)](#) which closed on 30 April. In our submission we raised our ongoing concerns that PDR remove the ability of councils and local communities to shape the area they live in and ensure homes are built to a high standard with the necessary infrastructure in place. We also reiterated that [Government’s own research revealed that](#) removing the locally-led process leads to poorer quality homes and places.

Scrutinising the local response to homelessness

13. The LGA has published a written [guide](#) for elected members which will support them to effectively perform their role in shaping and scrutinising the local response to homelessness. The guide was launched at a training event on the 11 May 2021.
14. We also ran a joint workshop with the National Housing Federation on 26th April 2021 on partnership working around homelessness during the COVID-19 pandemic, with a focus on identifying lessons learned and actions for the future. The outputs from the workshop will be fed into the [Kerslake Commission on Homelessness and Rough Sleeping](#), of which our Chairman is a member.

Research on interactions between local plan making and neighbourhood plans

15. The Planning Advisory Service (PAS) on behalf of the LGA commissioned DAC Planning to [research](#) the interactions between local plan making and neighbourhood plan making. The research identifies practices that are occurring across the country as local plans and neighbourhood plans are progressed. The research also identifies where there may be a need for further support, research or identification of best practice to enable local planning authorities (LPAs) to effectively support neighbourhood planning in the future.

Parliamentary debates

16. We have briefed MPs for parliamentary debates on the following: [the Archbishops’ Commission on Housing, Church and Community report Coming Home and the case for setting out a long-term housing strategy](#)

Press releases and statements

17. We have issued proactive press releases on the following: [Over 1.1 million homes with planning permission waiting to be built](#). We have also made public statements on the following: [response to new planning rules coming into force](#); [response to launch of new independent rough sleeping commission](#); [response to Public Accounts Committee report on rough sleeping](#); [response to vaccine prioritisation](#); [response to further extension of bailiff enforced eviction ban](#); [response to rough sleeping figures](#).

Economic Recovery

18. Since the last board meeting, two good practice guides were published by the LGA to support councils in their work on local economic recovery. These include a guide on [Local Economic Recovery Planning](#) (A playbook for action) and on Microbusinesses ([How well do you know your Microbusinesses](#))

National Bus Strategy

19. The LGA [welcomed](#) the Government's National Bus Strategy, [Bus Back Better](#), which was published on 15th March. The strategy marks a significant shift in national policy and the role of local government and includes a number of LGA 'wins' such as greater oversight powers (via enhanced partnerships or franchising) and access to ongoing recovery support and funding for transforming services as well as capacity support. There is also a commitment to review BSOG and the restrictions on councils being able to form their own bus companies. A [virtual briefing session](#) with DfT officials and Buses Minister has been organised for all LGA member councils on 21st May.

Building Safety Update

Remediation

Progress

20. [MHCLG statistics](#) show that by 31 March 2021, 92% (431) 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 (95% of buildings identified in December 2019).
21. The pace of ACM remediation continues to be slow 9 buildings and over 160 residential buildings with ACM on have not yet completed work. One of these, New Providence Wharf, experienced a serious fire on 7 May. The investigation into the fire has yet to bear fruit but the failure of the interim measures in place is a cause of concern.
22. [Registrations for the Building Safety Fund](#), which funds the remediation of non-ACM dangerous cladding on private blocks (and potentially covers the cost to leaseholders of remediation is social blocks) are also proceeding slowly. Around a third of the £1bn funding announced in the 2020 budget has been allocated. Of nearly 3,000 registrations only 668 have been approved to apply for funding and only 70 full applications have been approved. Over 800 registrations have either been rejected or withdrawn.

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23. The above means that the £3.5bn additional funding for cladding remediation over 18m announced in February is not yet being spent. We have yet to hear the details of how it will be allocated. The loan scheme for buildings 11-18m has also yet to be fleshed out.
24. The Waking Watch Relief Fund roll out has completed with applications in London closing at the end of April. Analysis of the figures for London has not been undertaken. Outside of London we are not aware of any applications that could not be funded.

Joint Inspection Team

25. The Joint Inspection Team's funding has been approved for 2020-21 and signed off by the LGA Board. The Indemnity has not yet been finalised but it has been agreed that the remit will cover non-ACM cladding and we do not anticipate any difficulties in completing the process. The 2020-21 programme of work will include significant training for councils. This should help to maximise its impact.

Fire Protection Board

26. The Building Risk Review programme overseen by the Board, remains ahead of its target schedule to ensure all residential buildings over 18m have been assessed or inspected by the end of 2021.
27. The LGA has raised the need to ensure liaison between council housing enforcement and fire and rescue service enforcement. This has resulted in some work to adapt the protocol attached to the LACORS fire safety guide to cover liaison over high rise residential buildings. This is being carried out under the Fire Protection Board.

Reform

28. Although MHCLG was due to respond to some of the PAC recommendations by the end of January. It has still not done so.
29. The HCLG committee published its report on cladding remediation on 29 April. The LGA gave evidence to this inquiry. Recommendations include a call for a Comprehensive Building Safety Fund for full remediation works of affected buildings that:
- 32.1. applies to all high-risk buildings of any height, irrespective of tenure;
 - 32.2. covers all fire safety defects, including combustible insulation; and
 - 32.3. covers all associated costs.
30. The report goes on to say that the 'Comprehensive Building Safety Fund should be fully funded by Government and industry, and the Government should establish clear principles regarding how the costs should be split between the two. Total contributions should not be capped. Social housing providers should have full and equal access to government funds for remediation'.

Building Safety Bill

31. 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. The Bill was included in the Queen's Speech (see Annex One) but no new detail was provided.

Gateway One

32. 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 will take effect in August, a month or two later than we had hoped. Annex Two is the text of an email we received announcing this on the day this paper was written.
33. We raised with MHCLG concerns about the shortcomings of regulations 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.

Product safety

34. On 21 April the government announced the lead reviewers conducting the Independent review of the system for testing construction products and published the Terms of Reference.
35. The review will answer the question: ‘How should the UK system for testing the safety of construction products and the use of data from the system be strengthened, to inspire confidence that those products are safe and perform as labelled and marketed when incorporated into construction work?’
36. It will do this by:
- 39.1. Mapping the system for testing, certifying, marketing, selling, re-testing and recalling construction products, including the legal framework under which this happens.
 - 39.2. Considering evidence from a variety of sources and assess what does/ could go wrong within this system.
 - 39.3. Recommending how this system should be strengthened, taking into account wider government and industry reforms and any economic or practical implications of implementing the recommendations
37. The independent review will be led by a panel comprising Paul Morrell OBE (Chair of the review) and Anneliese Day QC, supported by MHCLG and OPSS officials. It is to report in the summer and the Government will publish the review and its response (as soon as practicable). LGA officers are drafting a letter to the review

Fire Safety Bill

38. The Bill finally received Royal Assent at the last possible moment after the House of Lords backed down and abandoned amendments designed to protect leaseholders from remediation costs. Work on everything else seemed to grind to a halt at the Home office in the last weeks of the Bill’s passage and as a result we have yet to see the outcome of its latest work on the risk based guidance that must accompany the Bill. The Act’s commencement – slated for June – is further complicated by the fact that there is no current guidance on completing fire risk assessments (see below).

Fire Safety in Purpose-Built Blocks of Flats

39. This guide was commissioned from fire safety experts by the LGA at the Government's request in 2011. The LGA is no longer hosting this guide as changes in government policy and regulation mean that it is now out of date and the LGA does not have the inhouse expertise to amend the document. The LGA warned the government in 2019 that this might happen and has not taken the decision lightly. We cannot however host advice to our members that could leave us or then open to legal challenge. More detail is in the attached letter to fire and rescue authorities
40. The Government is currently producing a new version which we anticipate will be available later this year. Until this guidance appears, or the Government provides interim guidance it will be difficult to complete the fire risk assessments envisaged in the Fire Safety Act. Article 50 of the Fire Safety Order 2005 requires the Secretary of State to ensure that guidance is available to responsible persons on their duties under the Order.

Fire Safety Consultation

41. The Government published its [response to the Fire Safety Consultation](#) on 17 March. This covered proposals designed to:
- 44.1. strengthen the Regulatory Reform (Fire Safety) Order 2005 (the FSO) and improve compliance in all regulated premises;
 - 44.2. implement the Grenfell Tower Inquiry Phase 1 Report recommendations that require a change in the law; and,
 - 44.3. improve the effectiveness of consultation between Building Control Bodies (BCBs) and Fire and Rescue Authorities (FRAs) on planning for building work and the arrangements for the handover of fire safety information.
42. The response says the Government's will introduce measures that include:
- 45.1. improved competence requirements for fire risk assessors;
 - 45.2. a requirement that all Responsible Persons under the FSO (RPs) must record their completed fire risk assessment; their contact information, including a UK based address, cooperate with other RPs in the building and ensure they pass information on to new RPs;
 - 47.1. increased fines for various offences under the Order;
 - 47.2. improvements to the coordination of fire and building control
 - 47.3. delivery of the recommendations from the Grenfell Tower Inquiry Phase 1 recommendations that require legislation through regulations introduced under Article 24 of the FSO before the second anniversary of the Grenfell Tower Inquiry Phase One Report (this timetable may have slipped following the delay to the Fire Safety Bill and we think September is the new target). The recommendations on Personal Emergency Evacuation Plans (PEEPs) and fire door inspections will subject to further consultation, before then. The regulations will impose new requirements in relation to signage, Premises Information Boxes and lift inspections, as well as PEEPs, fire door inspections and evacuation more widely.

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43. Further work will be carried out to develop policy in relation to fees and charges, false fire alarms, maintenance, the provision of information to residents and higher-risk workplace buildings.

Annex one Queen's Speech – Supporting document text on the Building Safety Bill

“My Ministers will establish in law a new Building Safety Regulator to ensure that the tragedies of the past are never repeated.”

The purpose of the Bill is to:

- Make substantial reforms to the UK's building safety regime by establishing the Building Safety Regulator to deliver a new approach to regulating the built environment.
- Implement the recommendations made in the Independent Review of Building Regulations and Fire Safety, led by Dame Judith Hackitt.

The main benefits of the Bill would be:

- Changing the regulations and standards for the construction of high-risk buildings to ensure accountability and responsibility by making fundamental changes to the regulatory framework for higher-risk buildings and ensuring that products used in the construction of buildings will be held to rigorous safety standards.
- Putting in place measures that ensure homeowners can have a clearer path to redress and giving residents a stronger voice in the system.
- Ensuring the lessons from the Grenfell Tower tragedy are learnt and that residents are safe and feel safe in their homes.

The main elements of the Bill are:

- Establishing the Building Safety Regulator and updating existing building safety regulation, including a new stringent regime for buildings 18 metres or more, or 7 storeys or more, and introducing a system of Accountable Persons and Dutyholders – who will be responsible for making and keeping a building safe.

- Establishing a new framework to provide national oversight of construction products, and strengthening the powers of the Office for Product Safety and Standards in this area.
- Establishing a new homes ombudsman and simplifying the process to log complaints to the Housing Ombudsman for social housing tenants.
- Making provisions to support the removal of unsafe cladding, including through a financing scheme to pay for costs and a levy to ensure the development industry pays its fair share of the costs of remediating unsafe cladding.

Territorial extent and application

- The Bill will extend and apply to the whole of the UK. Its substantive provisions would apply in the main to England, with some provisions applying to England and Wales and provisions related to the Construction Products Regulator applying to the whole of the UK.

Key facts

- Over 13,000 buildings will fall into the higher risk regime established by the Bill, with an estimated 400 additional buildings coming into scope each year.
- We are supporting the removal of all unsafe cladding from buildings between 11-18m [NB this must be a typo, they mean over 18m] through a £5 billion investment fund which will fully cover these costs.

We have also announced a generous financing scheme for the removal of unsafe cladding from buildings between 11 and 18 metres. A new tax on the residential property development sector will raise at least £2 billion to help cover the costs of the Government's remediation programme. We are also providing £30 million to pay for the cost of common alarm systems, to help end costly waking watch measures in buildings waiting for remediation.

- We are clear that the responsibility for building safety still lies with the building

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owner and that the Government has stepped in only as a last resort.

- The Government published a draft bill in July 2020 for pre-legislative scrutiny by the Ministry of Housing, Communities and Local Government Select Committee.

We will respond to their considerations shortly

Annex 2 Text of email on Gateway One

As this email arrived on the day of the Queen's Speech it has not been possible to analyse or condense its contents.

Yesterday (10/05/2021) MHCLG published information on planning gateway one to support stakeholders and industry (including planning applicants and local planning authorities) to prepare for its implementation in the summer, and as you know JRG have contributed to the planning gateway one policy and policy design trials over the last year.

Government is committed to transforming the regulatory framework for fire safety in response to the Grenfell Tower fire, bringing about the biggest change in building safety for a generation, and will be introducing our Building Safety Bill this year which will establish a new building safety regime in England.

As a first step, a number of new requirements (referred to as planning gateway one) are to be introduced into the planning system by making amendments to The Town and Country Planning (Development Management Procedure) (England) Order 2015 (as amended), and an associated instrument. The purpose of the new requirements is to ensure fire safety matters as they relate to land use planning are incorporated at the planning application stage for schemes involving a relevant high-rise residential building. Subject to parliamentary scrutiny we propose to bring the changes into effect from 1 August 2021. The draft statutory provisions have been published and will:

- involve the Health and Safety Executive (HSE) becoming a statutory consultee before permission is granted for development which involves or is likely to involve a high-rise residential building in certain circumstances;
- require relevant applications for planning permission to include a fire statement (on a form published by the Secretary of State, or one to substantially the same effect) to ensure applicants have considered fire safety issues as they relate to land use planning matters (e.g. layout and access) ; and
- help inform effective decision-making by local planning authorities (or the Secretary of State as the case may be), so that those decisions and the actions that flow from them properly reflect and respond to the needs of the local community.

Planning gateway one information can be viewed at: <https://www.gov.uk/guidance/building-safety-planning-gateway-one>