

Building Safety Update

Purpose of report

Decision/discussion

Summary

This report updates members on developments around building safety work.

Recommendation

That members note the paper

Actions

Officers to incorporate members' views.

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Remediation

1. In its [position statement on leaseholder costs](#), produced in January this year, the LGA warned that ‘the scale of the cladding crisis could well be large enough to seriously damage the housing market and pile yet more pressure on the post-COVID economy’. Media [reports](#) this week state that the Bank of England now holds similar concerns and ‘has been pressuring lenders to audit their exposure to homes that might be unsellable’.

Progress

2. Department of Levelling Up, Housing and Communities (DLUHC) [statistics](#) show that by the end of October 2021, 94 percent (446) 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 (97 per cent of buildings identified at 31 December 2019). All social sector residential buildings have started work.
3. 15 percent of all identified buildings still have unsafe ACM cladding systems, 31 percent have not yet completed work and a further 11 percent have completed work but not yet had it signed off by building control. These figures are changing very slowly. One building a month starts work, 101 of 160 have completed it.
4. The Building Safety Fund was set up last year to pay for the remediation of non-ACM cladding on private buildings. [Statistics to the end of October](#) show that 2,821 owners have registered, covering 3,195 buildings.
5. The registration process is a form of pre-approval. 146 applications (covering 177 buildings) were reviewed in October, a significant increase on the 9 reviewed in September. Of the 2,821 registrations, a total of 2,494 (2,827 buildings) had been reviewed by the end of October. Of these:
 - 5.1 708 (744 buildings) were proceeding to an application for funding (covering an estimated 65,000 homes),
 - 5.2 183 full applications have been approved, and
 - 5.3 323 are at Pre-tender stage.
 - 5.4 656 (767) have been deemed ineligible, and
 - 5.5 630 (740) have been withdrawn.
6. 291 applications (307 buildings) were being reviewed and there are 209 (269) where the applicant needs to provide additional information; in 327 (368) additional cases the owner has not responded to requests for more information.
7. The fund also covers the costs social landlords would otherwise pass on to leaseholders - only £172m has been spent to date, with £637.5m allocated. 222 applications have been made. So far 36 have been rejected or withdrawn and 49 approved, with a further 44 approved in principle. The only change in October was that an additional 10 claims were been approved in principle.

Inspection and enforcement

8. Indications from DLUHC are that the Government will be looking to councils to do more to inspect and enforce in support of remediation in the period before the Building Safety Regulator (BSR) comes onstream.

9. This work should be coordinated with work the fire and rescue sector is doing – work which the Fire Safety Act will support when it is commenced (although it important to avoid any assumption that the Act will enable the fire service to carry the burden single-handedly).
10. This is all the more important given concerns that the BSR will not receive sufficient funds to meet its ambition of reviewing all safety cases in five years.
11. To support councils and fire services in this work the LGA is:
 - 11.1. Hosting a document - *Principles for effective regulation of Fire Safety in purpose-built blocks of flats* - drawn up by sector experts led by the LGA and National Fire Chiefs Council (NFCC), to assist council private sector housing enforcement and the fire service to work together to inspect and enforce in relation to dangerous cladding. LGA lawyers have now approved this. The document should be ready by the end of the year.
 - 11.2. Commissioning case studies of joint working, which it is hoped will be published before March.
 - 11.3. Discussing the funding of the Joint Inspection Team next year with DLUHC with a view to significantly expanding it. This is overseen by the JIT Programme Board.
 - 11.4. Lobbying for the provision of a data system to bring together the information on buildings over 18m in a way that supports effective enforcement.
 - 11.5. Considering the need for work around best practice in relation to decants. London Councils has a [guide](#) on the topic and the Greater Manchester Task Force (GMHRTF) is going to do some work on best practice following a [decant](#) there. Officers recommend that the LGA liaise with GMHRTF to explore the wider sharing of the Manchester document.
 - 11.6. Liaising with DLUHC who are planning to write to councils raising issues about Large Panel System buildings.

Reform

Funding

12. The Chair of the Grenfell Working Group (formerly the Grenfell Task and Finish Group) wrote to the Secretary of State in November raising concerns about the need to fund local regulatory services to deliver the functions of the Building Safety Regulator and local authorities as landlords to avoid the cost of building safety reforms reducing funds for new and improved social housing and maintenance of existing stock. The letter pointed out that the remediation element of building safety costs could be reduced by taking a cost-effective approach and that in some cases the installation of automatic fire suppressions systems (such as sprinklers) could deliver such an approach.

Building Safety Bill

13. The Bill has completed its committee stage.
14. Amendments at Committee Stage only passed if they were tabled by a Government Minister. The Government sought to amend the Bill at Committee Stage in three main

areas: extending the Bill to Wales; changing the definition of the accountable person; and making changes around the interaction between the gateway system and registration.

15. No date has been published as yet for the report stage.

Fire Safety Act

16. The Act was not commenced as anticipated in mid-October and consequently the regulations implementing the findings of the Grenfell Tower Inquiry Phase one have not been laid. It is unclear when the Act will commence, but officers have been told it is now unlikely that the regulations will commence in April 2022, as had been planned.

Government Policy

17. It is understood that the delays referred to above result from the new Secretary of State's desire to review policy and produce a 'coherent... package'. Michael Gove gave [evidence](#) to the select committee on 8 November which indicates what this package may look like:

- 17.1. **Leaseholder costs:** he questioned why leaseholders should have to pay 'disproportionate sums, when there are individuals in business.... who are guilty men and women' and went on to say that he is looking at how to deliver 'polluter pays' approach in the Bill and is reviewing whether the extension of the Defective Premises Act under the Bill is sufficient to solve the issue of leaseholder costs. The LGA has argued that it is not.
- 17.2. **Loan scheme:** he is reviewing the proposed loan scheme for remediation in blocks under 18m
- 17.3. **Scope of remediation:** in principle he agrees that government help should cover all fire safety defects not just cladding
- 17.4. He stopped short of promising that grants will be offered below 18m or for non-cladding issues, saying 'It may well be that I have to come back to this Committee or back to the House of Commons and say, "I have tried my very best and I have failed," but I just do not think that as a starting point, with people who have been landed with these bills through no fault of their own....we should be asking them to pay on the scale that is being envisaged'.
- 17.5. **Proportionality:** He argued that some owners were being excessively risk averse and that he wanted to ensure remediation funding was used in the best way. This indicates that he may agree with our argument that in some buildings it makes more sense to install sprinklers.
- 17.6. **Consolidated Advice Note:** he confirmed he wants to withdraw it – we have previously raised concerns that if nothing is in place to replace it this leaves landlords in a difficult position and will in any case no achieve the Government's aims. We anticipate that the replacement PAS 9980 should be ready in January.
- 17.7. **Social landlords costs:** 'social landlords and housing associations will want to make sure that those who are living in their homes are safe, but if they shoulder the burden of this work, as has been well advertised, that means that

the capacity to provide new housing is limited as well... it seems to me that an insufficient level of responsibility is being shouldered by those who were most responsible for getting us into this terrible situation in the first place’.

17.8. **Grenfell Inquiry:** he indicated that he expects that as the Inquiry turns its attention to the Department’s role, the Department itself will be seen on a couple of occasions not necessarily to have appreciated the importance of fire safety or done everything it should have done in the wake of the Lakanal House tragedy.

17.9. **Building Control:** although he was reported as criticising council building control, he actually said that ‘the deregulation of assessment and the way in which it was done was mistaken’.

18. Subsequently, the Secretary of State has indicated that he intends to set out his policy to Parliament before Christmas.

Improvement work

19. The LGA recently ran a one-day Leadership Essentials in Building Safety Course in London. Officers have looked into running events outside London and a two-day in person event will be held at Warwick in February aimed at Housing Portfolio Holders with stock (or ALMO stock) over 18m. Further events may be held.

20. A planned event for all housing portfolio holders in stock holding/councils (or with ALMOs) covering the Fire Safety Act and associated Grenfell Tower Inquiry recommendations was planned for December but is on hold as the Act did not commence in October as planned.

21. Officers are planning a series of events for next year, possibly as part of a three-year programme covering the transition to the Building Safety Regulator.

Implications for Wales

22. 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

23. None for LGA.

Next steps

24. Officers to take forward any actions.