

Building Safety Update

Purpose of report

For discussion.

Summary

This report aims to update members on the LGA's building safety-related work since the committee's last meeting.

Recommendation

That members note and comment on the LGA's building safety related work.

Action/s

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

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Building Safety Update

Background

1. Since the committee's last meeting, the Building Safety Bill has received Royal Assent; a date for the commencement of the Fire Safety Act has been set and the LGA has continued to work to support remediation.

Remediation

2. The LGA has already published [case studies](#) and a document on [principles of effective regulation](#) and have worked closely with Department of Levelling Up, Housing and Communities (DLUHC) officials and the National Fire Chiefs Council (NFCC) to promote joint working in this area, including through webinars that have reached over 600 council and fire service staff and through the work of the Joint Inspection Team which DLUHC funds.
3. Two related pieces of work are underway that will impact FRSs (Fire and Rescue Services):
 - 3.1. The DLUHC-led group Remediation Partners continues to work on a framework to support remediation, based on proposals for regional meetings between FRS and local authority environmental health teams in line with the Principles for Effective Regulation document. These regional meetings are expected to be based on the NFCC regions. The initial focus of activity is expected to be 'missing buildings', i.e. those with interim fire safety measures which have not applied for funding to begin remediation.
 - 3.2. Discussions are under way with DLUHC and NFCC to support a coordinated audit of risk within medium-rise residential buildings (11-18m).
4. While it is clear that there are a number of buildings under 18m that present a risk to life as a result of the failure of the regulatory system over twenty years and the irresponsible behaviour of some industry actors, we do not have accurate data on the true extent of this problem; nor do we know how widespread the over-provision of waking watches may be.
5. The LGA and NFCC therefore support the principle that we should improve our knowledge in this field. However, both organisations have conveyed to DLUHC that existing regulatory frameworks are not designed to prohibit excessively risk-averse behaviour, and it is unrealistic to think that a programme of inspection by either fire service or council regulators will be able to eliminate it, especially given the absence of powers to do so and the uncertainty around personal emergency evacuation plans (PEEPs).
6. LGA officers have sought a clear steer from Government on when those parts of the Building Safety Act that relate to funding for remediation can be expected to commence and what their impact will be, and have stressed the need for the Government to set out clear expectations in regard to enforcement action.
7. The Joint Inspection Team has secured funding for the next two years which will see it expand significantly. In effect it will triple in capacity by the end of this financial year.

Building Safety Bill

8. The Act received Royal Assent last month. There are a significant number of pieces of secondary legislation that will need to be passed in order to set up the new Building Safety Regime. There are also a number of questions we need to continue to ask. Those relating to FRSs are set out below:
9. **Will we end up with an effective relationship between the demands on FRSs made by the Building Safety Regulator and the funding available to expand capacity in the protection sphere?** The NFCC has not been given the funding it asked for to deliver the Health and Safety Executive's (HSE) plan. Discussions on the extent to which the plan needs to change to take account of this are ongoing.
10. **What will the impact be of the provisions protecting leaseholders on the ability to pay for remediation?** We are seeking clarification from officials on the impact of the Act and associated measures. In particular it is currently unclear what will happen in blocks where there is no warrantee and no successful claim against the developer and the cost of remediation is too great to be covered by leaseholders within the cap. In theory the freeholder is expected to pay, but that is unlikely if the sum is large as freeholds are not particularly valuable; moreover the freeholder will in many cases be the leaseholders acting collectively.
11. The chief concern here for FRSs is that the government wants councils and fire services to take enforcement action to drive remediation; this is not going to work if there is no funding available to pay for remediation (a related issue is that we do not yet know when these provisions commence and until they do it is likely that landlords will drag their feet to ensure they do not miss out on funding by acting before the support is in place).
12. **How effectively will the Act be aligned in operation with the Fire Safety Act?** The LGA and NFCC continue to seek to influence the HSE's setting-up of the new regulator to ensure this alignment takes place.

Fire Safety Act

13. The Act will commence this month and commencement will be followed by regulations implementing most of the recommendations made by phase one of the Grenfell Tower inquiry.
14. The Act will require responsible persons (RPs) to consider the need to update their fire risk assessment to take account of external wall systems. A Fire Risk Assessment (FRA) Prioritisation Tool will be launched alongside commencement. Its purpose will be to inform RPs of how urgent the need to review their FRA is, in order to spread out demand for the limited resource of fire risk assessors.
15. FRSs will be expected to use the clarification provided by the act to support remediation. See paragraph 2 above.
16. Following commencement of the Act the Home Office will lay regulations relating to the recommendations of the Grenfell Inquiry Phase One. Details will be circulated immediately prior to the meeting but when these regulations commence (which we anticipate is likely to be in the Autumn) they will result in FRSs receiving various items of information from Responsible Persons in some buildings, including (we expect):

- 16.1. Details of the materials and design of the external wall systems, including the level of risk posed and mitigations in place
 - 16.2. Floor plans (including the location of essential fire-fighting equipment) and a single page building plan
 - 16.3. Details of any lifts for use by firefighters and fire-fighting equipment which are out of order for a period of longer than 24 hours
17. It will be necessary for FRSs to prepare for this change and consider how much information they are likely to receive and how best to deal with it.

Implications for Wales

18. The Fire Safety Act came into force in Wales in [October 2021](#). 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

19. Although the LGA has set up the Joint Inspection Team, the cost of doing so is being met by DLUHC. Other work arising from this report will continue to be delivered within the planned staffing budget.

Next steps

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