

Meeting: Environment, Economy, Housing and Transport Board

Date: 21 March 2023



Building Safety Update

Purpose of report

For noting.

Summary

This report updates members on the LGA's building safety-related work since the last meeting.

Is this report confidential?

No

Recommendation

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

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Building Safety Update

Background

1. Since the Board's last meeting, the LGA has continued to monitor the implementation of the Fire Safety and Building Safety Acts, to plan related improvement work and continued to support remediation.

Remediation

Joint Inspection Team (JIT)

2. Councils have a duty to investigate suspected category 1 hazards under the Housing Act, which could include buildings with flammable cladding. The LGA is continuing to encourage its members to consider whether any private buildings in their area might benefit from a JIT inspection.
3. Work is underway to expand the team's remit to cover buildings 11-18m high and non-cladding fire safety defects.

General Position

4. The Department of Levelling Up, Housing and Communities (DLUHC) [statistics](#) for 31 January 2023 show that there has been a slight change from the December figures in respect of:
 - 4.1. 95% (464) 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 (99% of buildings identified at 31 December 2019, 98% of buildings identified at 31 December 2020 and 96% of buildings identified at 31 December 2021).
 - 4.2. All social sector residential buildings have either completed or started remediation. 99% have had their ACM cladding removed. No change from November.
 - 4.3. 443 buildings (91% of all identified buildings) no longer have unsafe ACM cladding systems – an increase of one since the end of December 2022.
 - 4.4. 407 (83% of all buildings) have completed ACM remediation works – no change since the end of December 2022. This includes 357 (73% of all buildings) which have received building control sign off – an increase of three since the end of December 2022.
5. On 28 July 2022, the government's £4.5 billion Building Safety Fund (BSF) reopened for new applications and remains open. Buildings over 18m with cladding issues are eligible to apply for the fund with guidance for applicants available [here](#). More

information for leaseholders about the Building Safety Fund and what it covers can be accessed [here](#). Leaseholders can check if they qualify for the cost protections under the Building Safety Act using the government's new [Leaseholder Protections Checker](#) with [further guidance](#) available.

6. The new tranche of the BSF requires buildings to claim on the basis of a PAS 9980 fire risk assessment. PAS 9980 is a standard that takes account of the external wall system. This is a more sophisticated approach to remediation than the Tranche 1 BSF approach based on the now withdrawn consolidated advice note (CAN). The CAN approach was focussed on whether materials met a standard; the PAS 9980 is a more holistic approach to fire safety and therefore produces a more proportionate approach to remediation. As a result some buildings are now coming into the fund that would previously have been rejected, for example a building requiring replacement of the balcony decking rather than replacing the cladding.
7. [Building Safety Fund data](#) shows that as of 31 January, 358 buildings have either started or completed work under the BSF, including 83 in the social sector, only 11 have completed and had building control sign off, another 93 are complete but not yet approved.
8. As of 31 January 2022, the total amount of funding allocated for the remediation of non-ACM cladding is £1,767m (including social sector). £169m of this is for the social sector.
9. As of 31 January 2022, the Building Safety Fund's total expenditure (including Social and Private Sector spend) was £809m.

Remediation/Contribution Orders

10. AS previously reported, DLUHC has launched its [first attempt](#) to impose a Remediation Order under the Building Safety Act. The case has yet to go to tribunal. DLUHC hopes councils will use Ros, which offer a potentially faster route to remediation than the Housing Act.
11. The [first attempt to obtain a remediation contribution order](#) has been successful. Residents who had already been charged for remediation were able to claim the money back from the freeholder

Mid-rise scheme

12. DLUHC launched a pilot of a new fund for remediation of buildings towards the end of last year. This is being delivered through Homes England and targeted 73 buildings, selected by invitation from NFCC data produced for the mid-rise risk review exercise, using expert analysis to identify the highest risk buildings, with a range of activity to test most effective ways of drawing buildings into the scheme.
13. There has been a variable rate of how the buildings have been through the process and in some instances there has been no engagement by the freeholder.

14. The whole scheme is being tested, with PAS 9980 being the guidance through which the funding would be delivered. At present it is a bit too early to be able to say anything meaningful about the outcomes and the sample size is too small to make firm predictions about how many eligible buildings will actually go through the scheme.
15. The plan is for the full scheme to open this year and the expectation is that 5,000 buildings will be eligible.

LGA role

16. The LGA continues to support the Remediation Partners work led by DLUHC, which seeks to encourage remediation through enforcement work by fire services and councils.
17. We have been given further detail of the £8m funding for 59 councils, selected as having ten or more high rise blocks in their area, to support enforcement on private 18m+ buildings across 2022/24:
 - 17.1. £2.4m been paid and remaining £6m will be paid in April – so covering 16 months
 - 17.2. Councils are expected to use the Housing Act and Building Safety Act enforcement powers and also: assist in getting buildings registered for the Building Safety Fund; help DLUHC with building data; support engagement with the local FRS; use the JIT; update Delta on enforcement and engage with the Department.
 - 17.3. The funding can be used to bolster existing activity, recruit to new posts, bring in new teams, bring in expertise - e.g. fire engineers. There is discretion on how they use the funding to support enforcement.
 - 17.4. DLUHC report very positive feedback. Almost half of the councils receiving funds have outlined their plans and explained the buildings they will be targeting, and one is starting to recruit to new roles. They hope to work with the LGA to identify those yet to respond
18. As of December DLUHC have been publishing enforcement data at end of each month.
19. LGA support has included promoting the JIT to councils, facilitating attempts to organise a meeting with Birmingham – which has one of the largest numbers of high rise private buildings, providing secretariat support to the London PRS enforcement group (and ensuring LFB participation) and publishing the document [Principles for effective regulation of fire safety in flats](#) and associated case studies.

Building Safety Act

20. The LGA continues to work with the National Fire Chiefs Council (NFCC) and Local Authority Building Control (LABC) to support the Health and Safety Executive's (HSE) delivery of the new regime.

21. The NFCC has been asked to update members on its work in relation to the new regime at the meeting.

22. The LGA has a number of concerns, including:

22.1. the lack of information available to duty holders (who must begin registering buildings with the new regulator in April and complete the process by October);

- Some councils will need to register large numbers of buildings but have yet to be given the detail of how to do so or what key information they will need to supply.
- We understand that for each building the BSR will require the following in order to register: address; details of accountable person; height; number of storeys; number of residential units; building completion certificate.
- The owner then needs to provide the following key information: structure - type and materials; external features and wall materials; fire safety (unclear exactly what this refers to but probably the risk assessment).
- Although the HSE provided the details above in a meeting with councils in London it has said it will not put the information on its website until the relevant secondary legislation has been passed. The anticipated date for that is 5 April – the day before the requirements come into force.
- While the act of registering a building should not be time consuming, the key information may take time to gather, bearing in mind that councils are already facing a significant task in complying with the Fire Safety (England) Regulations and, crucially, we do not yet know whether the digital system for registration will be glitch-free (experience suggests it will not). In addition the building completion certificate requirement is unclear in relation to older buildings.
- In addition councils will be expected to produce safety cases for each building by April next year. The third iteration of guidance on this process is not expected to be available until June this year. Quite apart from this delay, the shortage of fire risk assessors and structural engineers is likely to mean this deadline is a challenge.
- At present officers are unclear how arduous the registration (and key details) process will be.
- Following discussion at the Grenfell Working Group, the LGA is writing to the HSE to raise the above issues and ask that the BSR seek councils' views on this and consider whether the October deadline remains reasonable in consultation with the LGA, with a similar ask in relation to the Safety Case deadline.
- The HSE plans further engagement with duty holders under the Building Safety Act in 2023 focused on what they need to do to register their building(s). The LGA will continue to support this engagement.

22.2. Proposed rules around the definition of a building for the purposes of the Building Safety Act, which risk excluding crucial parts of structures from the BSR's overview, confusing duty-holders and potentially producing an unfunded transfer of work to the fire service.

- Throughout the proposal and passage of the Building Safety Act, references were made to the need to ensure that buildings were considered as a whole where they had mixed commercial and residential use.
- Following the passing of the Act, regulations have been passed that redefine 'building' for the purposes of the Act. As a result parts of some buildings could be excluded from the new regulatory system. The LGA is raising this issue with ministers.

22.3. Other issues include: the difficulty fire services are experiencing in increasing staff capacity to deliver the new regime; guidance and MoU governing local delivery of BSR functions including indemnity for local authority officers delivering BSR functions; decisions by HSE at Gateway One which cannot be supported by local authority building control services; the relationship between support for remediation by local PSH enforcement teams and the emerging role of the BSR.

23. The HSE launched its 'Be ready' building safety campaign on 27 February. The campaign aims to help and encourage everyone affected by changes to building safety law to:

be ready – understand what is coming and how to prepare

step up – take ownership and manage risks

act now – comply with new law

24. The campaign's first focus is on being ready for high-rise building registration, the first operational function of the Building Safety Regulator (BSR) to come into force under the Building Safety Act, 2022. Owners of high-rise residential buildings must register them with the Building Safety Regulator by 1 October 2023. Details can be found [here](#); and you can sign-up to receive detailed information [here](#).

25. The first Building Safety Conference is being hosted by the BSR on Wednesday 22nd March at the Methodist Central Hall, Whitehall. Attendees will hear directly from BSR about the important changes that will come into effect from April 2023 and how to prepare for them.

Improvement

26. The LGA has commissioned a set of six case studies on Large Panel Systems (LPS) Buildings which aim to explain the various management strategies of different local authorities in England.

- 26.1. These case studies will detail the unique circumstances in which each council found their LPS stock, the challenges they encountered and the solutions they then adopted, varying from maintenance to demolition of all LPS blocks.
- 26.2. The case studies will be published on the LGA website and will provide a resource for councils to utilise when facing their own challenges involving LPS building blocks. We anticipate further cases where LPS blocks require management and see the introduction of a new safety case regime for high rise buildings as a good time to share best practice.
27. A Building Safety [Leadership Essentials](#) event for councillors was held in person at Warwick University on 1-2 February 2023. We had a very strong turn out and responses have been positive.
28. We hope to run more leadership essentials courses next year, including on 18-19 October. For further information contact Grace.Collins@local.gov.uk
29. We have run 5 Building Safety webinars this year and now regularly get 100+ attendees. We plan to run more next year.
30. The LGA's new [Building Safety e-learning module](#), designed to help leaders and portfolio holders to understand the upcoming Building Safety regime has been launched. Members are encouraged to take it and if you do, please complete the evaluation.

Implications for Wales

31. The Fire Safety Act came into force in Wales in [October 2021](#). The new regulations passed under the FSO only apply in England. 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

32. Although the LGA has set up the Joint Inspection Team, the cost of doing so is being met by DLUHC. 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.

Equalities implications

33. The group of people affected by building safety issues will be broad and include a wide variety of potential equalities issues, with social landlords for example having

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responsibilities to consider the need for personal emergency evacuation plans for people who are unable to self-evacuate from high-rise residential buildings.

Next steps

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