

## Agenda – Equality, Local Government and Communities Committee

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Meeting Venue:

Committee Room 3 – Senedd

Meeting date: 11 October 2018

Meeting time: 08.50

For further information contact:

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At its meeting on 3 October, the Committee agreed a motion under Standing Order 17.42 (vi) to resolve to exclude the public from item 1 of today's meeting.

Pre-meeting (08.50 – 09.00)

### **1 Renting Homes (Fees etc.) (Wales) Bill: consideration of the draft report**

(09.00 – 10.45)

(Pages 1 – 64)

Break (10.45 – 11.00)

### **2 Introductions, apologies, substitutions and declarations of interest**

### **3 Inquiry into fire safety in high rise blocks in Wales (private sector): evidence session 5**

(11.00 – 12.00)

(Pages 65 – 83)

- Rebecca Evans AM, Minister for Housing and Regeneration
- Emma Williams, Deputy Director, Housing Policy Division, Education and Public Services Group, Welsh Government
- Francois Samuel, Head of Building Regulations, Building Regulations, Planning Directorate, Welsh Government
- Andy Fry OBE, Chief Fire and Rescue Advisor and Inspector for Wales, Fire Services Branch, Education and Public Services Group, Welsh Government



Cynulliad  
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Assembly for  
Wales

- Huw Maguire, Senior Policy Manager, Housing Policy, Education and Public Services Group, Welsh Government

## **4 Papers to note**

(Page 84)

### **4.1 Letter from the Minister for Housing and Regeneration in relation to the Renting Homes (Fees etc.) (Wales) Bill**

(Pages 85 – 87)

### **4.2 Letter from the Cabinet Secretary for Finance to the Chair of the Finance Committee in relation to the Welsh Government draft budget 2019–20**

(Pages 88 – 89)

## **5 Motion under Standing Order 17.42 (vi) to resolve to exclude the public from the remainder of the meeting**

## **6 Inquiry into fire safety in high rise blocks in Wales (private sector): discussion of the evidence received**

(12.00 – 12.15)

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## **Equalities, Local Government & Communities Committee inquiry into fire safety in high-rise blocks in Wales**

Written evidence of the Minister for Housing and Regeneration

This evidence paper sets out some of the key developments, actions and considerations relating to fire safety in the private sector. I continue to co-ordinate the Welsh Government's response to this issue, which remains of particular interest to the Cabinet Secretary for Local Government and Public Services and the Cabinet Secretary for Energy, Planning and Rural Affairs.

### **1. Context**

More than a year has passed since the tragic incident at Grenfell Tower, which highlighted a number of serious issues relating to fire safety for residents of high-rise blocks.

In particular, the Grenfell Tower fire drew attention to the way in which the presence of certain types of Aluminium Composite Material (ACM) in a building's exterior cladding can dramatically accelerate the spread of fire. This meant that, at Grenfell Tower, the 'system' underpinning fire safety in the building broke down. In a high-rise building, fire safety is secured through an interplay of factors including the presence of functioning smoke alarms and, increasingly, sprinkler systems, as well as the effective 'compartmentation' of the building to prevent the spread of fire.

There are additional steps that can also be taken to raise awareness amongst residents of fire safety issues and to encourage preventative behaviours – often with the support of the Fire and Rescue Service (FRS), which is able to provide extensive advice and support to landlords, managing agents, and residents. The FRS carries out over 50,000 home safety checks each year. These checks, which focus on those most at risk, are funded by the Welsh Government and are completely free of charge to residents. While it is impossible to fully quantify their impact, we know of many cases where equipment supplied as part of the check has undoubtedly saved lives. There can, however, be **no** room for complacency, with the events at Grenfell Tower demonstrating the need to address some serious flaws in the current system of building regulation.

Accordingly, I and the Welsh Government remain committed to ensuring and increasing the safety of residents in high-rise buildings, in both the private and social sectors. The Welsh Government has a strong record in relation to advancing fire safety in the home, clearly demonstrated when, in 2016, Wales became the first country in the world to make the installation of sprinkler systems in newly-built and converted homes compulsory. We continue to build on such efforts, for example

through consulting earlier in the year on the proposed Renting Homes (Fitness for Human Habitation) (Wales) Regulations, which will direct landlords to give due regard to fire safety matters, both at the start and during the entire length of the occupation contract, and will also make mandatory the fitting of smoke alarms in privately-rented accommodation. One of the issues highlighted by the events at Grenfell Tower was, moreover, a lack of meaningful and responsive engagement with residents. In the social sector, the Welsh Government expects Housing Associations to be mindful of the views, needs, and aspirations of tenants. We already consider tenant satisfaction in our regulation of Housing Associations and seek to develop this further through our 'Tenants at the Heart' project, which is due to provide recommendations for further embedding tenant engagement in this sector in June 2019.

## **2. Welsh Government response to Grenfell Tower**

The Welsh Government has responded to the catastrophe at Grenfell Tower in a timely and robust manner.

### Remediation work

We took immediate steps to identify tall buildings with ACM cladding of types which corresponded to those which 'failed' Building Research Establishment (BRE) combustibility tests. 12 privately-owned high-rise blocks have been identified with Category 2 or 3 ACM. Of these, 10 are private high-rise residential buildings and two are high-rise student accommodation. I met with developers and managing agents of buildings on which remediation was yet to commence, to hear updates and ascertain their plans, and to challenge them to progress remediation work at pace. We have, consequently, engaged in honest dialogue in an area which is not always straightforward.

I wish to make the Committee aware of the following updates relating to remediation work in the 12 blocks.

I have been pleased to note that work on one of the student buildings has been completed and its owners are currently awaiting a validation certificate. Remediation work on the second student block is, however, less advanced. Work to ascertain the compliance of the cladding on the second student development, and its behaviour in a large-scale destructive fire test, is currently being scheduled, albeit outside the United Kingdom (which serves to underline some of the capacity issues in the system). It should be noted that the cladding on this block is ACM Category 2 (referring to ACM types with limited flame retardant properties) as opposed to Category 3 (ACM types with no flame retardant properties), meaning that the risk is marginally lower. In addition, mitigating measures have been put in place in this block (which already had a fire suppressant system in place) and there has been

extensive engagement between the building owner and the FRS. It should be noted that remediation work in student blocks is generally less complex, given that issues relating to the potential financial liability of leaseholders do not tend to arise.

In terms of the private sector buildings, work on one block is now expected to be completed in the coming weeks, with work having been hampered by the discovery of secondary (non-safety threatening) defects discovered upon removal of the cladding. We have consistently advised owners to seek both fire and structural engineering advice in determining the appropriate course of action.

Building owners have drawn up remediation plans for the remaining private developments, although I understand that issues of financial responsibility are still to be satisfactorily resolved. I have reinforced to builders and building owners the Welsh Government's settled position that we do not expect leaseholders to be required to pay for remediation work. Irrespective of the typically complex set of relationships between builders, insurers, and managing agents, people living in high-rise buildings must be safe. Given that remediation work may take time for various reasons, it is imperative that an assessment is made of building safety and that steps are taken to ensure resident well-being in the blocks where work has yet to conclude.

At this juncture, I would like to draw attention to the progress made in the sole buildings identified in the social sector (managed by Newport City Homes) where remediation work to ACM cladding has been necessary. The Welsh Government has made £3 million available to facilitate the replacement of cladding in these three buildings and I anticipate being able to announce the successful completion of this work early in the New Year.

#### Additional actions

In addition to overseeing the progress of remediation work, I have responded to the recommendations of the Fire Safety Advisory Group (FSAG) – established by Carl Sargeant, formerly Cabinet Secretary for Communities and Children – by publishing a set of principles for good practice in relation to resident engagement by building owners and managing agents. This promotes effective and timely communication with the purpose of informing residents of the need for and progress of any remedial work, as well as to sustain engagement relating to fire safety in the building more broadly. I have, furthermore, taken steps to improve data sharing by statutory agencies – which was also highlighted in FSAG's recommendations. The Welsh Government has worked closely with the Welsh Local Government Association, and senior Welsh Government officials have met with director-level counterparts in Local Authorities, in order to ensure that the locations and particulars of high-rise residential buildings are known to all relevant bodies, including the FRS. We have asked Local Authorities with common issues to work together to share information and consider and learn from the approaches that other LAs are taking. My

expectation is that improved, more proactive data sharing will ensure a more joined up public sector-wide response to fire safety issues moving forward. Our support to LAs has extended to include the organisation of a 'masterclass' event regarding the appropriate application of housing law, and to support LAs to further embed an understanding of their duties in law to undertake enforcement action to drive positive outcomes for residents (including in relation to remediation work). This was delivered by expert lawyers and by the author of the Housing Health and Safety Rating System (HHSRS).

On the back of the available evidence, the Welsh Government moved quickly to announce – in a written statement of 17 May – a consultation on a proposed ban of the use of combustible materials in the external walls of high-rise residential buildings. I consider that such a ban is a more straightforward means of ensuring residents' safety than the existing option under the Building Regulations 2010 to conduct a 'whole system' test of the exterior wall to ensure fire resistance, as per BS 8414. My views on this matter are informed by Dame Judith Hackitt's observation – as published in the final report of the Independent Review – that the use of materials in a building's exterior cladding system that are non-combustible or are of limited combustibility is 'undoubtedly' of lower risk than the application of a 'whole system' test. The Welsh Government continues to liaise closely with the Ministry for Housing, Communities and Local Government (MHCLG) – which has also consulted on a proposed ban in England. The Welsh Government's consultation closed on 13 September and my officials are in the process of analysing the responses received from interested organisations and individuals. I will, of course, continue to keep the Committee apprised of developments in relation to the proposed ban.

### **3. Fire doors**

The Welsh Government has acted promptly to issue guidance in response to the announcement by MHCLG of a widespread problem in relation to the effectiveness of composite fire doors. This originated in testing undertaken by the Metropolitan Police (as part of their criminal investigation into the events at Grenfell Tower) on a composite fire door, manufactured by Manse Masterdor, which had been fitted at Grenfell Tower. This fire door was found not to resist the spread of fire for the 30 minute required minimum period set down in the statutory guidance accompanying the Building Regulations 2010. Further testing was commissioned by the MHCLG's Building Safety Programme on other FD30 composite fire doors from a range of manufacturers, which resulted in the identification of an industry-wide problem: composite fire doors do not consistently withstand the spread of fire, when tested on both sides, for at least 30 minutes. In response to these tests, the industry has withdrawn from sale all FD30 composite fire doors until such time as certified evidence can be produced to give assurance that an individual product meets the



prescribed test. The MHCLG confirmed it will proceed to conduct fire resistance tests of timber fire doors from mid October.

The Welsh Government responded to the particular issue uncovered in relation to the defective composite fire door supplied by Manse Masterdor by writing out to Local Authorities, registered social landlords, and owners and managing agents of high-rise residential buildings on 17 May. We asked that fire risk assessments be refreshed in buildings where Manse Masterdoor products had been fitted to take account of the risk identified. We also requested that building owners provide details of the buildings where Manse Masterdor products had been fitted to the National Fire Chiefs Council to aid the linking up of the FRS response to the issue.

Given how events have subsequently unfolded, we have gone on to issue guidance for the attention of 'responsible persons' in relation to fire door risk more generally. The identity and role of the 'responsible person' is defined in the Regulatory Reform (Fire Safety) Order 2005 and, for a privately owned block of flats, is usually the landlord or managing agent. The Welsh Government's guidance reminds 'responsible persons' of their duty to ensure that all entrance doors between individual flats and common areas have been satisfactorily tested (in accordance with the above). This includes the need to contact and engage with residents to ensure that residents do not replace front entrance doors (linking individual dwellings and common areas) themselves and that any such doors comply with the test set out in the Building Regulations 2010. 'Responsible persons' are also advised to refresh their existing Fire Risk Assessment in order to consider how urgently non-compliant fire doors should be replaced, as well as any other mitigating actions to be undertaken.

It should be reiterated that fire safety in any building (including high-rise blocks) is secured through a combination of measures. This means that a defect in one protective factor – such as in fire doors – should not significantly alter the overall fire safety of the building. In addition, all doors (including a non-compliant composite fire door) provide *some* essential protection against fire if properly closed. I and the Welsh Government therefore agree with the advice of the endorsed by the UK Government's Expert Panel, which has stated that the additional risk to public safety remains low.

The Committee should be assured that my officials will continue to vigilantly monitor the situation with regard to fire doors and will continue to engage with MHCLG in order to ensure that 'responsible persons' are provided with adequate guidance relating to the very latest developments. This includes the forthcoming tests to be conducted by MHCLG in relation to the fire resistance of wooden fire doors.

#### **4. The Independent Review of Building Regulations and Fire Safety**

The Independent Review of Building Regulations and Fire Safety – chaired by Dame Judith Hackitt – published its final report and recommendations earlier in the year. The Independent Review was commissioned by the MHCLG in the immediate aftermath of the Grenfell Tower fire in order to assess the adequacy of existing building and fire safety regulations and related compliance and enforcement issues, with a particular focus on multi-occupancy high-rise residential buildings.

Whilst the Independent Review was commissioned by the UK Government, the Welsh Government recognises its relevance to Wales and the need for what Dame Judith has, in the final report, termed an ‘integrated systemic change,’ involving the development of a new regulatory framework to ensure that resident safety is fully considered at all stages of the building ‘life cycle’ – with the necessary roles and responsibilities clearly defined and a robust system of oversight and enforcement in place. The recommendations of the Independent Review seek to bring about a complete culture-change within the construction and building management sector, which includes tackling the motivation of a small number of private developers to prioritise profit over quality and safety. The Welsh Government agrees with the spirit and broad diagnosis of the Independent Review and will consider a response to the issues raised which take account of the distinct Welsh context and the levers available to the Welsh Government. I am clear at the outset that, whilst we do not want to see regulation out of proportion to risk, we cannot accept a dysfunctional system which jeopardises the safety of citizens.

At the invitation of the First Minister, I have established and chaired an initial meeting of a Building Safety Expert Group – whose diverse membership includes social landlords, a national house-builder, a registered architect, and representatives from local government and the FRS – to consider a Welsh response to the Independent Review’s recommendations and the extent of their application in and to Wales, with records of Expert Group meetings to be published online. In concluding its initial phase of work, which commences in October, the Expert Group will agree a ‘road map’ for consideration in early 2019. This will detail:

- Whether, and to what extent, the Review’s description of the context and problems is applicable to Wales
- The parameters of a Welsh response to the issues raised by the Review, bearing in mind the distinct Welsh context and levers available to the Welsh Government
- The scope of application and whether the Welsh response should apply to high-rise residential blocks alone, or to a wider range of buildings
- Approaches to any new regulatory framework, particularly the appropriate balance between prescription, flexibility and levels of risk
- The priority and sequencing of an implementation plan

This will help shape a comprehensive approach to be taken forward by the Welsh Government. I look forward to sharing the 'road map' and other results of the Expert Group's deliberations with the Committee in due course.

# Agenda Item 4

## Equality, Local Government and Communities Committee

### 11 October 2018 – papers to note cover sheet

Paper no.	Issue	From	Action point
ELGC(5)–27–18 Paper 2	Renting Homes (Fees etc.) (Wales) Bill	Minister for Housing and Regeneration	Letter in response to the Committee's letter dated 19 September 2018
ELGC(5)–27–18 Paper 3	Draft Budget 2019–20	Cabinet Secretary for Finance	Letter ahead of scrutiny of the Welsh Government draft budget 2019–20

ELGC(5)-27-18 Paper 2

Ein cyf/Our ref MAL/RE/0569/18

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28 September 2018

Dear John

Thank you for your letter following my latest evidence session in relation to the Renting Homes (Fees etc.) (Wales) Bill before the committee on 19 September. I have responded to the issues in your letter in the order they were raised.

*An overview of guidance to tenants and landlords ahead of the Bill coming into force*

I have noted from the committee's evidence sessions that stakeholders have expressed uncertainty about the circumstances where a payment in default of a contract may occur. Our intention, in providing guidance in respect of these payments, is to provide the most common examples of such circumstances and to set out best practice. Such guidance would be non-statutory to reflect practice in the sector. I would be happy to provide further detail once officials have had an opportunity to engage further with the sector. I would expect this to be possible during the stage 2 proceedings.

*Right to rent provisions within the Bill*

The Immigration Act 2014 relates to a non-devolved area and the 2014 Act extends to the UK in its entirety. Reference to the 2014 Act in paragraph 7 of Schedule 2 to the Bill does not commence section 22 of the 2014 Act, nor sanction the right to rent in Wales, it reflects legislation that is already on the statute book. This cannot be ignored.

To remove this provision from Schedule 2 would put landlords in Wales at a disadvantage in comparison to their English counterparts. A landlord in Wales would be required to return a

holding deposit notwithstanding the prospective tenant had provided false or misleading information, while a landlord in England would not.

The deposit would have to be repaid in Wales despite the landlord being prohibited from granting a contract to the contract-holder when the landlord did not and could not reasonably have been expected to know the position before accepting it and subsequently the parties fail to enter into the contract before the deadline for agreement.

During this time there would be a right of first refusal in relation to granting the contract, subject to suitability checks being undertaken by the landlord. This would place a landlord in Wales at a clear disadvantage over a landlord in England, as a result of legislation which applies UK-wide. We consider this provision should remain in the Bill not least to ensure equal treatment for landlords in England and Wales reflecting the current legislation.

### *Post-legislative evaluation*

Post-legislative evaluation should focus on how successful this particular legislation – if passed by the National Assembly and enacted – is at delivering the policy objective of improving access to and movement within the private rented sector by banning letting agents and landlords from charging contract holders fees. It will also seek to monitor impact on the sector, as set out in the explanatory memorandum.

In undertaking the evaluation, we will have at our disposal, for the first time, a range of data collected by Rent Smart Wales, including registrations, de-registrations and licensing information for letting agents and landlords. This unique set of information will help us understand the sector and changes to it over time in more depth than has previously been possible and is currently possible in other parts of the UK. Specifically, we will be able to identify changes in the number of letting agents, landlords and properties within the sector. We will also use publically-available national statistics and Rent Officer Wales data about the private rented sector to identify changes to rent levels.

Any changes to the sector identified through this detailed data monitoring will prompt further examination and exploration, including quantitative or qualitative research to examine the underlying factors.

This monitoring will be ongoing from the date the legislation is implemented, in the event it is passed by the National Assembly.

### *Why the Bill does not give powers to local authorities to assist contract-holders in recovering prohibited payments*

Local authorities have a duty under section 60 of the Housing (Wales) Act 2014 to provide information, advice and assistance, free of charge, in accessing help to prevent anyone from becoming homeless. A contract-holder vulnerable to such risk may be able to receive such assistance.

For claimants not at risk of homelessness, but who are nonetheless seeking help from the local authority to make a claim, local authorities will direct them to an advice body such as Citizens Advice Shelter Cymru and NUS Cymru, who already specialise in supporting individuals facing financial disputes or difficulties. As such, I consider them to be better placed to offer this kind of assistance given their existing expertise and experience. In addition, giving powers to local authorities to assist contract-holders in recovering prohibited payments creates a risk that those authorities will be drawn into ongoing and often protracted disputes over financial claims. As well as creating duplication, this may result in resources being

diverted from wider public service duties, including those that would be necessary for the successful enforcement of the Bill.

I hope this response assists with your ongoing scrutiny of the Bill and I look forward to continuing to work with the committee.

Yours sincerely

A handwritten signature in black ink that reads "Rebecca". The script is cursive and fluid.

**Rebecca Evans AC/AM**

Y Gweinidog Tai ac Adfywio

Minister for Housing and Regeneration

# Agenda Item 4.2

Mark Drakeford AM/AC  
Ysgrifennydd y Cabinet dros Gyllid  
Cabinet Secretary for Finance



Llywodraeth Cymru  
Welsh Government

ELGC(5)-27-18 Paper 3

Ein cyf/Our ref

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30 September 2018

Dear Llyr

Ahead of the forthcoming publication of the outline draft Budget 2019-20, I am writing to update you about the work to establish a shared understanding around a definition of prevention.

When I gave evidence to the Finance Committee during last year's Budget scrutiny, I said discussions were ongoing with our public and third sector partners to define preventative spend.

We have worked with a number of organisations, including Wales Council for Voluntary Action and the Future Generations Commissioner (FGC), to move this important agenda forward. The discussions culminated in a roundtable event in July, organised by the Commissioner's office and attended by Welsh Government officials, the third sector, Public Health Wales, the fire service and academics. It was constructive and has helped to shape our thinking.

We have now agreed a definition of prevention. I hope it will provide a useful framework, which allows an holistic evaluation of government expenditure:

**Prevention is working in partnership to co-produce the best outcomes possible, utilising the strengths and assets people and places have to contribute. Breaking down into four levels, each level can reduce demand for the next:**

Bae Caerdydd • Cardiff Bay  
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Rydym yn croesawu derbyn gohebiaeth yn Gymraeg. Byddwn yn ateb gohebiaeth a dderbynnir yn Gymraeg yn Gymraeg ac ni fydd gohebu yn Gymraeg yn arwain at oedi.

We welcome receiving correspondence in Welsh. Any correspondence received in Welsh will be answered in Welsh and corresponding in Welsh will not lead to a delay in responding.



- **Primary prevention** – building resilience – creating the conditions in which problems don't arise in the future. A universal approach.
- **Secondary prevention** – targeting action towards areas where there is a high risk of a problem occurring. A targeted approach which cements the principles of progressive universalism.\*
- **Tertiary prevention** – intervening once there is a problem to stop it getting worse and prevent it reoccurring in the future. An intervention approach.
- **Acute spending** – spending, which acts to manage the impact of a strongly negative situation but does little or nothing to prevent problems occurring in the future. A remedial approach.

\***Progressive universalism** is a determination to provide support for all, giving everyone and everything a voice and vested interest, but recognises more support will be required by those people or areas with greater needs.

We will use this definition to classify a spending area in each of the six Main Expenditure Groups (MEGs) in this budget round. An analysis of the results, which will be set out in the detailed draft Budget – published on 23 October – will provide a preliminary insight towards the proportion of spend in each category.

These findings will help to inform our thinking further and will provide a useful platform on which we can continue to build on in the future.

I look forward to working with the Finance Committee during its scrutiny of the draft Budget.

Best wishes,  
Mark

**Mark Drakeford AM/AC**

Ysgrifennydd y Cabinet dros Gyllid  
Cabinet Secretary for Finance