

Equalities, Local government and Communities Committee inquiry into fire safety in high rise blocks

Written Evidence of the Cabinet Secretaries for Communities and Children and the Environment and Rural Affairs

This evidence paper sets out some of the key developments, actions and considerations since the appalling tragedy at Grenfell Tower.

1 Identification, Engagement and Guidance

The scale, emerging complexity and fluid nature of activity following the Grenfell Tower fire has emphasised the critical importance of effective information-sharing and communications between administrations, agencies and, of course, tenants.

Initially, effective information flow between the UK Government Department for Communities and Local Government (DCLG) and the Welsh Government proved challenging. This became yet more complex with the involvement of other agencies, for example the Building Research Establishment (BRE). The nature of the situation and speed with which circumstances evolved appeared to test and stretch resources, leading to some early difficulties. As things stand, however, communications between administrations (and, indeed, other agencies) have become more fluid and effective, with the Cabinet Secretary for Communities and Children engagement in ministerial groups chaired by the Secretary of State for Communities and Local Government, at least weekly contact at official level, the establishment of key contacts and more timely sharing of intelligence.

The Welsh Government has tried to keep all those with an interest well-informed, sharing information widely, for example through:

- Regular Written Statements to Assembly Members throughout the BRE testing regime;
- A Frequently Asked Questions page [<http://gov.wales/topics/housing-and-regeneration/services-and-support/grenfell-tower-faqs/?lang=en>] on the Welsh Government web pages. This has been updated on a twice-weekly basis;
- 'Myth-busting' communications with the media and in-depth updates to local government; and
- Daily, now bi-weekly, telephone conferences with key partners, including Third Sector partners and the Welsh Local Government Association.

Private Sector Engagement

Forming an accurate and complete picture of high-rise residential buildings in the private sector has proved difficult. As is the case elsewhere in the UK, complexities arise in establishing, for example, the number and location of

high-rise residential buildings, authoritative ownership details, accurate information on managing agents or block managers, and the presence of mixed use buildings. We have worked closely with local government, the Welsh Local Government Association and other stakeholders in our continuing efforts to identify all privately-owned residential high-rise buildings in Wales, including privately-owned student accommodation. Looking forward, however, we will work with partners to ensure a more effective system can be developed to ensure we have a complete, up-to-date list of tall buildings, and associated ownership and/or management particulars, across sectors.

As things stand, we have identified and written to the freeholders or managing agents of more than eighty privately owned high-rise blocks, setting out the steps they should take to identify and test Aluminium Composite Material cladding and, where present, the appropriate precautionary measures to be taken. We have also reminded landlords/managing agents of the need to undertake standard fire safety risk assessments in line with Government and Fire and Rescue Services (FRS) advice.

Further advice and guidance has also been provided by relevant representative bodies, including, for example, the Association of Residential Managing Agents, the Residential Landlords Association and the Royal Institute of Chartered Surveyors.

Student Accommodation (Higher Education)

We continue to establish accurate details of high-rise student accommodation, so we, and students, can be assured of their safety and well-being. Students at higher education institutions in Wales, in common with other tenants, reside in different types of accommodation, owned or managed by different providers. We have worked with the Higher Education Funding Council for Wales (HEFCW) to gather information to help enable the identification of all high-rise residential accommodation occupied by students. However, universities are not always made aware of students' term-time addresses, nor advised of changes of address. Consequently, comprehensive identification of all high-rise 'student accommodation' or accommodation used by students across sectors is complex. Universities have already provided information on buildings within their ownership, or subject to contractual arrangements, and have assisted where possible in identifying private sector high-rise accommodation.

Where institutions own residential buildings, or have a contractual relationship with external providers, they have been asked to review these; particularly high-rise buildings with ACM cladding. No such buildings have been identified. Regarding private sector providers, HEFCW has also asked institutions to identify any known high-rise accommodation used by their students (so owners or managing agents can be identified and contacted, and details established of the external envelope of their buildings). Owners or agents are being provided with access to the same screening tests, full system test results, advice and guidance as social housing landlords.

HEFCW continues to monitor guidance and information as it becomes available and is keeping institutions and the Welsh Government updated.

Supporting Landlords

Following initial testing by the BRE and subsequent large-scale tests carried out by them, the Welsh Government has worked closely with landlords, in both the social and private sectors. Following the conclusion and reporting of BRE large-scale testing, guidance relating to the seven tests has been produced by the DCLG.

This complements Local Government Association guidance produced for the social housing sector on fire safety in purpose-built high-rise residential tower blocks. We will continue our engagement with landlords across sectors in coming to a view as to whether further, Wales-specific guidance would be beneficial.

To date, the 'failed' large-scale testing results correspond with cladding material on eleven buildings identified in Wales. We have applied a 'casework' approach to our liaison with landlords (one organisation in the social housing sector accounts for three of the buildings) and/or managing agent (there is one managing agent for the eight private sector buildings in two developments). Casework teams, comprising named Welsh Government officials, work closely with landlords, managing agents and Fire and Rescue Services, to ensure parties are well-informed, cognisant of UK Expert Panel guidance (which we have adopted) and emerging practice. Where appropriate, the teams will monitor any 'remediation' action. We will take forward a similar approach for further cases arising.

Funding for remediation work remains a matter for landlords; we are, though, alive to the potential impact of any additional new funding allocations from the UK Government and the potential for funding in terms of future Barnett consequentials that may arise.

Advice to Tenants

Ensuring tenants are provided with updated advice and kept informed is vital and intended to reassure. There is a balance to be struck, however, between giving clear and comprehensive advice regarding fire risks, and creating unnecessary alarm (all the more so in the aftermath of an exceptional tragedy like Grenfell Tower). Giving such advice, including any updates or changes, is primarily a matter for landlords and the Fire and Rescue Service, rather than government. Overall, we are content advice has been accurate, realistic and sober. We have been impressed by some practical examples of tenant engagement and will consider how and when these can best be shared.

Tenant Voice

In terms of ensuring a representative voice, the Welsh Government currently funds the Tenant Participation Advisory Service Cymru (TPAS Cymru), as the representative body for social housing tenants in Wales. TPAS Cymru is best

placed to lead on tenant advocacy, in addition to providing support for tenants. As a national representative body their remit includes lobbying on behalf of their membership.

TPAS Cymru's agreed work programme for the next two years includes the production of advice and guidance to develop and promote participation in the Private Rented Sector in collaboration with partner organisations including Rent Smart Wales, Residential Landlords Association in Wales & Shelter Cymru. TPAS Cymru is also a member of the International Union of Tenants; a TPAS Cymru representative sits on the Welsh Government's Fire Safety Advisory Group.

2. Statutory Framework

The Fire Safety Order

Responsible Persons

The Regulatory Reform (Fire Safety) Order 2005 requires 'responsible persons' to take steps to ensure fire safety within non-domestic premises. The responsible person differs depending on the type of premises concerned and there may be more than one responsible person for any given building.

Currently, the Order takes a 'general' approach in that it covers all non-domestic premises, from corner shops to tower blocks to factories, on largely the same terms.

Responsible persons need to be able to discharge the duties the Order places on them, as a lack of knowledge or competence in fire safety in general, and the Order in particular, clearly places people at risk. With this in mind, we agree further consideration should be given to the current fire safety competence requirements placed on individuals under the Order.

A more specific competence requirement may be more appropriate in respect of arrangements for high risk premises, for example tower blocks (but also recycling plants and hospitals). Applying the same requirement to, say, small farms or one-room offices could create disproportionate burdens with little effect on the generally low risk of fire in such premises.

It is also recognised that currently there are complexities for Fire and Rescue Services (and others) in *identifying* responsible persons under the Order. The breadth of the Order means anyone from a sole trader to a multinational absentee landlord may be the responsible person. The position is especially complex for buildings in mixed use or ownership, and would probably benefit from clarification or greater rigour.

The Welsh Government therefore recognises the case in principle for reviewing the Regulatory Reform (Fire Safety) Order 2005. However, the power to make any amendments to the Order does not lie with the Welsh Ministers. In framing a future position, we will also wish to have regard to the recommendations arising from the independent review of buildings regulations and fire safety. We will, of course, work closely with the UK Government in terms of the implementation of any findings and their implications for the Order.

Fire and Rescue Authorities and Building Control Bodies

There is already a statutory duty within the Fire Safety Order for Building Control Bodies (Local Authorities and private Approved Inspectors) to consult the Fire and Rescue Authority where the building is subject to the Regulatory Reform (Fire Safety) Order.

This duty enables the Fire and Rescue Authority to liaise with the Building Control Body regarding the fire safety requirements of the building prior to, during and following construction stages. It also provides essential information the Fire and Rescue authority will require following the completion and occupation of the building in order to undertake their duty of enforcing the Regulatory Reform (Fire Safety) Order.

Potential for Primary Fire Authority for High-Rise Fire Safety Inspections

It is clearly important to ensure the proper fire safety standards in all high-rise blocks, however we do not consider designating a Primary Fire Authority for this purpose would necessarily help. Our three Services work together closely on many matters, including fire safety inspection, and we will explore with them how these arrangements can be further enhanced. However, FRAs also rely heavily on local knowledge of premises and landlords, which could be jeopardised by too rigid an approach. On a practical level, any landlord which owned both high-rise and low-rise buildings outside the primary FRA's area would have to deal with two FRAs rather than one. For example, were South Wales FRA to become the primary authority, then Flintshire County Council would have to deal with it as regards its high-rise blocks, and with North Wales FRA for the remainder of its estate.

Building Regulations

The UK Government has established an independent review of building regulations and fire safety. Terms of reference for the review can be found at:

<https://www.gov.uk/government/news/independent-review-of-building-regulations-and-fire-safety-publication-of-terms-of-reference>

The terms of reference indicate the review will examine the current regulatory system and, based on evidence, make recommendations which ensure the

regulatory system is fit for purpose, with a particular focus on multi-occupancy high-rise residential buildings.

Cabinet Secretaries will meet the chair of the review, Dame Judith Hackitt, to discuss engagement and the need to ensure outputs from the review are shared across administrations. The outcomes may have implications for the regulatory systems in Wales and, therefore, a close relationship between both our Governments throughout the review will be essential. To this end, the Secretary of State for Communities and Local Government has confirmed he would strongly welcome close liaison with the Welsh Government on its work relating to the independent review of building regulations and fire safety generally

We understand the review will present an interim report in Autumn 2017, and a final report in Spring 2018. The UK Government has undertaken to act swiftly on any recommendations from this review. For our part, the Welsh Government will consider any recommendations in full.

3. Practical Measures

The Welsh Government believes promoting home fire safety is vital. We know more domestic fires result from accidents than from unsafe products or premises. Advising people on how to stay safe is, therefore, at least as important as complying with building or product standards.

Accordingly, all three Fire and Rescue Services provide free home fire safety checks, funded by the Welsh Government. The check includes a comprehensive assessment of fire risks, advice on reducing them, and appropriate safety equipment such as smoke alarms or fireproof bedding. The Services actively promote the programme through numerous channels, and act on referrals from other agencies such as Local Authorities, housing associations, third sector organisations and the police. Since the introduction of the Fire and Rescue Services Act 2004, when responsibility for this area was transferred, the three Services have completed over 780,000 checks; while some of those will have been repeat visits, the number equates to over 55% of all dwellings in Wales. While comparable data do not exist for other jurisdictions, this is clearly impressive given no-one can be forced to have a check – and many households are at low risk of fire and will have less need for one. The Services also provide very extensive general fire safety advice, including via press campaigns, public events, schools, third sector organisations and social media. We do not believe there is any particular problem here.

Practical Preventative Measures

Expert guidance quite properly urges landlords to take expert advice in identifying and applying remediation measures. More generally, there are prevention and suppression measures which, if applied, are likely to prevent or suppress fire.

Compartmentation

Effective compartmentation is critical to containing the spread of fire. If fire propagates beyond a supposedly secure compartment (eg a flat or hotel room), then, as happened at Grenfell Tower, the safety of the entire building can be compromised. It can be particularly challenging to fight a fire once it spreads to internal voids and ducts.

Fire and Rescue Service inspections can and do verify the presence of fire doors and similar measures in common areas. This generally includes front doors of flats; if they form part of the boundary of the common area, they are covered by the Fire Safety Order. However, while the Service can take action against the responsible person in such cases, it has no jurisdiction over private residents – so actually reinstating a fire door to the front of a flat often becomes a matter between landlord and tenant (or freeholder and leaseholder), and may not be resolved quickly, if at all. There is no easy solution to this under the Order as it stands, which underlines the case for reviewing it.

The Fire and Rescue Service cannot, however, practically inspect minor modifications such as drilling through walls within or between flats. That would better be addressed by Local Housing Authorities, which have the primary responsibility to assess residential dwellings regarding health and safety concerns. This would include concerns relating to preserving compartmentalisation.

Sprinkler Systems

The fitting of sprinkler systems by landlords or developers is recognised as contributing to effective fire safety measures. Since January 2016, Building Regulations require all new and converted homes to have sprinklers in place.

We are starting to see the development of a residential sprinkler supply chain to serve the new requirements. Initially activity is based on the existing sprinkler industry.

We welcome the moves by both NCH and the City and County of Swansea to retro-fit sprinkler systems to residential buildings affected by the results of BRE initial and large-scale tests.

In the case of retrospective remediation actions, responsibility for the measures rests with landlords and/or developers.

Wind-loading impact on external wall insulation

As a separate issue we are aware of a British Board of Agreement report identifying concerns with the way wind loading impacts on external wall insulation are being assessed, particularly in tall buildings. We have written to building control bodies and competent persons self certification schemes reminding them of the requirements relating to structural safety under the building regulations and the need for vigilance when scrutinising structural

calculations. The report follows on from a number of incidents where external wall insulation panels became unattached from tower blocks in England and Scotland.

The Department for Communities and Local Government has referred the report to the Standing Committee on Structural Safety (SCOSS) for advice. We will liaise with the UK Government over this and any subsequent advice to inform our next steps.

Large scale panels on buildings

Earlier in the summer there were press reports concerning residential tower blocks in the London Borough of Southwark. These had been evacuated, and gas supplies cut off, due to remedial work to reinforce the structures not having been undertaken. The work had been identified as necessary following the Ronan Point tragedy in 1968, in which a gas explosion caused the partial collapse of the block. Officials had previously checked with UK Government there were no buildings identified following the Ronan Point incident which were located in Wales. This had been confirmed to be the case.

We were recently made aware the investigation into the Southwark buildings had raised wider concerns. These related to the general strength of buildings built with large-scale panels and, also, the ability of such panels to 'pull apart' due to the expansion and contraction of the concrete composition, leaving gaps which can impair fire compartmentation.

Officials have written to Local Authorities and registered social landlords, asking them in the first instance to identify and provide further information on any buildings using such panels. We await further guidance from the UK Standing Committee of Structural Safety (SCOSS) before progressing further.

The Welsh Government will continue to work with partners across the sectors and with the UK Government as we work to ensure the range of existing and emerging issues are fully considered and appropriate action taken forward.