

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.