A ROAD MAP TO SAFER BUILDINGS IN WALES
Report of the Building Safety Expert Group

Purpose

1. To inform members of the findings and recommendations of the Building Safety Expert Group as presented to Welsh Government with the aim of improving the safety of residential buildings in Wales.

Background

1. Following the tragic fire at Grenfell Tower in 2017, the UK Government established an independent review of building regulations and fire safety, chaired by Dame Judith Hackitt. Producing both an interim and final report, the review concluded that the current overall system is not working effectively and needs to be overhauled. The final report determined that the whole system of regulation, covering what is written down and the way in which it is enacted in practice, is not fit for purpose, leaving room for confusion and ways for shortcuts to be taken by those who want to.

3. The review report described a system lacking rigour and accountability which does not support a safety-focused culture at all stages of the building lifecycle. It found fundamental systemic change is required and reform should be taken forward in a considered and coherent manner which avoids the ‘cherry-picking’ of the easy to do at the expense of the longer-term actions that need to be taken. Such an approach must also extend to matters where a coordinated, cross-UK response is required or advantageous. It is also recognised that there are resource and financial implications that need to be fully considered. Significant legislative change will also be needed to deliver a new regulatory system.

4. Established in October 2018 by Welsh Government, the Building Safety Expert Group has considered and discussed a response to the issues raised by the Hackitt Report and the Report of their deliberations provides an “advised steer” regarding the applicability of the Review and its recommendations to the Welsh context and areas for particular priority in terms of implementation. The WLGA was represented on the Group by Jim McKirdle, Housing Policy Officer. Dave Holland represented the Directors of Public Protection Wales, and Ian Maddox represented Local Authority Building Control. The Group hope that their findings and recommendations will support Welsh Government to, “Improve
the landscape within which building regulations and fire safety measures operate in Wales in order to improve the safety of higher risk residential buildings”.

**Recommendations from the Building Safety Expert Group in Wales**

5. The main findings and recommendations made by the Expert Group to Welsh Government are summarized below:

**The Case for Change:**

- The Hackitt Review presents a compelling case – there is a lack of clarity around key roles and responsibilities.

- Some of the solutions to the issues will involve a UK-wide response. Some will require a tailored response based on the unique context in each UK jurisdiction - there is imbalance between building designers/contractors and regulators and there are confusing differences between the two types of building control.

- Regardless of whether the change is UK-wide or applied solely in the Welsh context, change needs to be comprehensive and coherent – there are competence and capacity issues throughout the system.

- A piecemeal system of improvement will not bring about the holistic change to regulation and culture which is required – the current enforcement/sanctions regime is not strong enough to underpin compliance and there are significant limitations in driving improvements to existing buildings.

**The current building landscape in Wales:**

- As of May 2018, 143 high-rise residential buildings (18m+) were identified in Wales: 38 in the social sector and 105 in the private sector. This is a dynamic picture and it is important that the locations and particulars of high-rise residential buildings are pooled and kept up to date. This is a key element of the ‘golden thread’ of information described in the Hackitt Review: regulating agencies require accurate information in order to help them manage and minimize risk to residents and the safety of the wider public.

- Local authorities should continue to update their records of high-rise buildings, and expand the information to include the details of other higher risk buildings, such as hospitals and care homes. Local teams should also be convened (local authority building control services, Fire and Rescue Services (FRS) and other relevant parties) in areas of large concentration of high-rise residential buildings to establish sustainable mechanisms for the collective
oversight of ‘in scope’ buildings and other aspects of partnership working, including enforcement.

Scope:

- The Hackitt Review recommends, “the new regulatory framework should apply to residential properties which are 10 or more storeys high in the first instance”. In identifying scope, Welsh Government should be mindful of the nature of the Welsh housing stock and the need to protect residents in the type of buildings that are likely to be built in Wales in the future. As such, the Group recommend that Welsh Government consider a broader scope than recommended by Hackitt and research into the existing building landscape should be undertaken, including consideration of the impacts of adopting each of the three options outlined in the report.

Potential ‘retrospective’ application of reform:

- Welsh Government should look again at promoting sprinklers in existing ‘in scope’ buildings, building on the need for all new-builds and converted properties to possess them and should continue to promote fire alarms and smoke detectors in individual dwellings. Welsh Government should review the options and consider the impacts on practicalities developing a way forward to promote sprinklers and fire alarms/smoke detectors in higher risk residential buildings.

Construction Phase – principles of reform:

- The regulatory regime is seen as complex and Welsh Government has the necessary legislative levers available to make the necessary reforms for Wales. There is a need for a safety-focused ethos to be fostered amongst all involved in design and construction of an ‘in scope’ building and professionals need to have the competence to consider the impact of their actions on the safety of the building across the entirety of its ‘life cycle’.

- The new system will require changes to legislation and cultures to promote accountability but many of the principles of the new system can be implemented ahead of legislation. Inherent to the new system is additional cost resulting from the demands of a new system designed to make buildings safer. This should be acknowledged and accepted.

Joint Competent Authority:

- The Hackitt Review recommended that a ‘Joint Competent Authority’ (JCA) comprising local authority building control services, the FRS and the Health and Safety Executive (HSE) should be the regulator for high-rise residential buildings across all stages of the building ‘life cycle’. Ahead of legislation, FRS
role in the building control approval process for high-rise residential buildings should be enhanced.

A proposed new system for Wales:

- Changes need to be made to the Building Control process so that there is greater rigour during the building and redevelopment of ‘in scope’ buildings, including more robust enforcement of Building Regulations and reconciling of any inconsistencies between the rules and processes applied by local authority Building Control services and Approved Inspectors. The Expert Group have developed a basic prototype of a new process that would embed building safety into the design construction and occupation of buildings (and this is set out in the report).

Dutyholders (construction phase):

- The roles and responsibilities set out in the Construction (Design and Management) Regulations 2015 should form the basis of roles and responsibilities for ‘dutyholders’ during the construction phase.

Occupation Phase:

- Successful maintenance of fire safety in the occupation phase is shared between landlords and residents. Measures aimed at preventing fire (such as promoting fire safety awareness and seeking to change behaviours) are therefore of great importance. In practice, much depends on the ‘responsible person’ for each building, who is in charge with conducting a fire risk assessment and taking appropriate corrective measures.

- The current regulatory framework within the occupation phase of the building ‘life cycle’ is fragmented and at times ineffective, with confused roles and responsibilities and limited information for, or requirements placed on, those who reside in the buildings. A dutyholder should also nominate a competent building safety coordinator to be responsible for the day-to-day management of the building, and to act as a point of contact for residents. Welsh Government should bring forward legislation to replace the Regulatory Reform (Fire Safety) Order 2005 in order to provide clarity and resolve the identified basic problems. This should include setting out in legislation dutyholders and their roles and responsibilities during the occupation and maintenance/renovation of buildings ‘in scope’.

Safety Case Approach and the Golden Thread:

- Many of the recommendation of the Hackitt Review focus on information capturing and sharing and proposes a Golden Thread of key information is developed about a building. The information would have a number of uses, for example, the owner or building safety coordinator will have one use for it,
regulators another and residents another. Consideration will have to be given to the ownership of information and who and how others may access it.

- A ‘safety case’ approach should inform the ongoing management of building safety across the entire building lifecycle. The development of a Golden Thread of information is required to underpin the identification, regulation and management of ‘in scope’ buildings and Welsh Government will need to consider how to give practical effect to the Golden Thread. In the meantime, work should be undertaken with building developers to find out what information is currently collected and how it is used, with best practice identified and promoted.

**Capability and capacity:**

- The Hackitt Review identified there is a lack of a coherent and comprehensive approach to professional competence within the sector. Welsh Government should keep a watchful eye on the work of the Competence Steering Group and give consideration to how their proposals might apply in Wales and should include supporting the delivery of apprenticeships and CPD. Government should also work closely with Clients to improve their ability to identify competent contractors, developing guidance and sharing best practice to support this.

- There are existing pressures within local authority Building Control services and the FRS to deliver against existing requirements. Professionals with relevant experience and training are thinly spread across the system. Specific recommendations in this section are:

  - Welsh Government should engage with local authorities and FRS to assess existing staffing and competence levels. This should identify where the gaps are in relation to the needs of the future system, including the requirement for joint working during the planning, construction and refurbishment of ‘in scope’ buildings

  - The FRS should look to identify gaps to better support the ‘occupation phase’ and how best to regulate in a system where there is greater expectations with regards to fire risk assessments

  - Welsh Government, WLGA, local authorities and FRSs should work together to ensure the staffing levels and qualifications are adequate to meet the needs of the future system, initially focusing on capability and capacity within the public sector. This should involve consideration of resource levels, ‘talent pipelines’ and succession planning
Welsh Government, local authorities, FRS and WLGA should consider what formal regional and national arrangements are needed to share knowledge and expertise to support the new system.

**Conflict of interest:**

- Welsh Government should consider how to ensure there is sufficient capacity in the Building Control sector to deliver against a new system. This should include a consideration of the role of Approved Inspectors, and careful consideration to the findings of the industry group in relation to Building Control/Building Standards.

**General principles of enforcement:**

- The current suite of enforcement measures need to be “reinforced so that penalties are an effective deterrent against noncompliance”. Welsh Government should keep abreast of the work of the Joint Regulators Group established by the UK Government, which will start to test elements of the revised framework in 2019 ahead of any new proposed legislation, and give consideration to applicability in Wales in due course.

- Welsh Government will need to give consideration to additional steps that could be taken to bolster regulators’ enforcement capacity and consider the role of enforcement and compliance in Wales. This should consider any interim measures that could be put in place using existing powers, as well as longer term considerations of an appropriate system of enforcement.

- A mapping exercise to identify all currently available enforcement levers should be undertaken and how they are used and any barriers, with awareness of its findings being shared. Welsh Government should consider a more formal protocol setting out the link-up between the Fire Safety Order and Housing Act 2004 should act if needed. An appropriate route for redress when internal complaints procedures have been exhausted should also be considered.

**Working in partnership:**

- Building safety knows no geographical boundaries and many of the principles and processes for ensuring it need not and should not diverge between different jurisdictions. While much learning can be pooled across the UK, Welsh Government should be prepared to take a different approach when necessary, e.g. where a different course of action would be better suited to the Welsh context.
6. The report of the Expert Group has been submitted to Welsh Government and the Minister is considering its recommendations. It is anticipated that a response on the way forward will be announced before the Summer Recess.

Recommendations

7. Members are asked to:

7.1 Note the contents of this report;

7.2 Receive a further report on next steps following Welsh Government’s response to the Expert Group’s Report.

Author: Naomi Alleyne
Director, Social Services and Housing
Tel: 02920 468660
E-mail: naomi.alleyne@wlga.gov.uk