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Independent report

# Independent expert statement in building safety in medium and lower-rise blocks of flats

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- Dame Judith Hackitt, Chair of the Independent Review of Building Regulations and Fire Safety
- Sir Ken Knight, Chair of the Independent Expert Advisory Panel on building safety following the Grenfell Tower Fire
- Ron Dobson, former London Fire Commissioner
- Roy Wilsher, Advisor on fire reform, former Chief Fire Officer

1. We were asked, by the Secretary of State for Housing, Communities and Local Government, as a group of individuals with broad experience in this field, to consider issues of proportionality in relation to building safety in medium and lower rise blocks of flats, the impact on the housing market, and what more government could do to ensure approaches that are proportionate to the level of risk. This note summarises our views on this issue. MHCLG Advice Notes and expert opinions provided to government have consistently supported a proportionate risk-based approach to fire safety in buildings. Unfortunately, since the Grenfell Tower tragedy, not everyone involved has adopted such an attitude towards building safety.

2. For the past four years, government has had a programme of reform and remediation in place to address systemic issues that pose risks of multiple fire fatalities in high-rise residential buildings (those over 18m and typically more than six storeys in height) and to protect leasehold owners of flats from the costs of cladding remediation where it is necessary. The programme of work has been developed in response to the serious issues exposed by the Grenfell Tower tragedy and by the independent review of Building Regulations and includes:

- £5.1 billion in public funding to support the remediation of unsafe cladding on these high-rise blocks requiring works;
- the Fire Safety Act which requires external walls to be considered as part of a building system in routine fire risk assessments; and
- a new Building Safety Bill, published on 5 July 2021, introducing the biggest changes to building safety regulation in a generation including:
  - a Building Safety Regulator to oversee a new safety management regime for high-rise residential homes, with residents' interests at its heart;
  - a construction products regulator to lead and co-ordinate the enforcement of a stronger regulatory framework for construction products; and
  - a new "gateway" process to ensure that safety is considered at every stage of a building's development including design and all stages of construction, completion and occupation. It is right that Government's remediation and reform interventions have focussed on the buildings which inherently present the greatest risk from fire spread: the tallest buildings; and the building failure that has the potential for rapid acceleration of fire spread: unsafe cladding.

3. Furthermore, in order to improve levels of safety for and provide reassurance to all residents, expert advice was also provided on how to assess potential concerns in medium and lower rise blocks of flats. This advice was intended to ensure that assessments were proportionate to risk, encouraging solutions that support residents' safety through cost-effective responses. However, it is

now clear that there has been an overreaction and excessive risk aversion in some parts of the market, which is leading to interventions that create excessive financial burdens disproportionate to the level of risk.

4. Building owners should ensure that residential buildings of any height are safe, as it is their longstanding legal responsibility to do so. However, there has been a disproportionate reactions to the level of risk in medium and lower-rise buildings such as some surveyors seeking excessive amount of additional information on risks and safety to offer mortgage valuations; some insurers raising buildings insurance premiums and withdrawing or placing punitive exclusions on professional indemnity insurance; and some fire risk assessors taking an unnecessarily risk averse approach in identifying risks and recommending remedial works –which may not be necessary, and impose unjustified costs.

5. The impact of these market responses and building safety issues in medium-rise blocks of flats has been significant and is causing serious distress and anxiety to many residents - not only in relation to cost but also heightening their fears about the safety of the buildings themselves. We believe that Government intervention is necessary to correct that over-reaction in the market as soon as possible and to reassure residents by providing some context about the true extent of risk that they are living with.

6. Fires in homes in England are rare in all dwellings, including high rise. Fire data provided to the Home Office by Fire and Rescue Services shows that:

a. Dwelling fires attended by fire and rescue services in England have reduced by more than a quarter over the last decade and are at an all-time low since comparable statistics started to be collected in 1981/82. This is despite the fact that, in 2020, people spent very much greater amounts of time in their homes as a result of Covid restrictions. In the year ending December 2020, there were 27,482 primary dwelling fires attended by Fire and Rescue Services in England. That is 75 a day, spread across 24 million dwellings in England.

b. The vast majority of fires (91%) were in houses, bungalows, converted or low rise (three storeys or lower) flats or other properties, while 9% were in blocks of flats of four storeys or more.

c. While any death in a fire is tragic, only a small proportion of fires resulted in a fire-related fatality in 2020: 176 people in total lost their lives in dwelling fires (down from 257 in 2009/10), of which just 10 fatalities were in blocks of flats of four or more storeys. This is the lowest number of fatalities from fire since comparable statistics began to be collected forty years ago.

d. Very few fires spread from the room where they start, and incidences of fire spread are rarer in blocks of flats over four storeys than in lower rise dwellings. In 2019/20, 7% of fires spread beyond the room of origin in blocks of flats over four storeys, compared with 9% in blocks below four storeys and 14% in houses, bungalows, converted flats and other dwellings.

7. Grenfell Tower was a catastrophic event which occurred as a result of a combination of factors that included highly combustible ACM cladding, not a single cause. Therefore, it is consistent to consider multiple means of reducing risk in a way that is proportionate to the stock of buildings.

8. Any remediation or mitigation work faced by leaseholders in blocks between 11 and 18m in height (typically, four to six storeys) needs to be appropriate, proportionate and affordable.

9. Initial results of surveys of medium rise blocks of flats indicate that the vast majority are free from serious safety risks associated with unsafe cladding requiring remediation, and from any associated costs. Only a small proportion of medium rise blocks of flats might have cladding systems that could require further assessment. The extent of cladding and other materials on the exterior of buildings varies greatly. The initial results show that not all cladding systems have combustible materials and not all combustible materials in the external wall need to be replaced. We expect that a significant

number of buildings that will require further investigation will not require costly remediation to remove unsafe cladding but could be made safe through other more cost effective measures or do not require any work to achieve an appropriate level of safety. Further work is being undertaken by the Department between now and September to establish the extent to which unsafe cladding needs to be replaced, or whether it can be suitably mitigated through fire protection and prevention measures.

10. Lenders have committed to publish data on mortgage applications for buildings where they currently require EWS1 forms. One major lender has already provided data and reported that using the current RICS guidance on valuation of multi-storey, multi-occupancy residential buildings with cladding, only 7% of flats in buildings up to 6 storeys require an EWS1 assessment. This preliminary data demonstrates that in a substantial proportion of cases, EWS1 assessments are found to be already held by the lender for those buildings, with only approximately 4% of all mortgage applications for flats leading to a request for a EWS1. Other lenders are reporting similar proportions.

11. The evidence is clear that the risk of fire related fatalities is very low in buildings of any height. Government's decision to focus its attention on greater risks from fire spread in high rise buildings of 18m and over is a proportional response to the level of risk. Furthermore, the evidence on medium rise blocks of flats over four storeys shows that incidences where fires spread are rare. Given this low level of risk, there is no need for surveyors or lenders to request EWS1 forms for buildings below 18m. Fire risk assessments should continue in the usual course of business for all blocks of flats to meet the requirements of the Fire Safety Order, but conducting ad hoc building by building additional assessments should not be necessary.

12. While we know that there have been systemic failures in assuring quality and oversight of the way in which some blocks of flats were built in the past this cannot be taken to mean that there is a systemic risk of fire in blocks of flats.

13. Furthermore, in most cases in blocks of flats below 18m where fire safety risks are identified (such as the presence of combustible cladding), adequate levels of safety can be achieved for residents by implementing cost effective risk mitigations (such as smoke and fire detectors and alarms, adequate means of escape, sprinklers and smoke control systems). Where these risk mitigations are not present, their introduction, or other cost-effective measures or enhancements, can mitigate risks identified without unnecessarily financially burdening those involved. Where EWS1 forms and assessments have already been completed for buildings below 18m and have identified costly remediation work we strongly recommend that these assessments are reviewed to ensure that the proposed solution is cost effective and proportionate.

14. No-one is suggesting that there is no risk from fire. Fires occur for a variety of reasons and are most commonly associated with cooking and electrical appliances. It remains important for residents to understand how they can prevent and reduce such fires occurring in their own homes and take simple steps such as ensuring that they have working smoke alarms in their homes to protect themselves and fellow residents from fire. <sup>[footnote 1]</sup>

15. However, based upon the evidence available, it is clear that in blocks of flats below 18m the risk aversion that we have seen in the mortgage and insurance markets - in the identification of significant and costly construction works to completely replace external wall systems or in the additional scrutiny being applied through encouraging or even mandating EWS1 assessments - is unjustified and unnecessary. There should not be an assumption that there is significant risk to life unless there is clear evidence to support this.

16. The responsible persons for all blocks of flats (usually the freehold owner or the managing agent) should continue to meet their statutory and other obligations to maintain their buildings and ensure the safety of residents, including meeting the requirement to have an up-to-date fire risk assessment, and should act on the findings of those assessments.

17. Although nothing in this statement contradicts the Government Consolidated Advice Note (CAN), over the coming months Government intends to withdraw the CAN as a new industry standard, developed by the British Standards Institution (Publicly Available Specification 9980) and further guidance from the Home Office in relation to the Fire Safety Order is published. In line with the CAN, this new guidance will support a risk based proportionate approach and will help guide responsible persons on their duties and the approaches they should take, and provide a suitable framework for professional fire risk assessments that are proportionate to risk, undertaken periodically in the usual assessment cycle.

18. However, we believe that government should act now to remove uncertainty for residents, to reassure them about their safety and to correct the disproportionate reaction we have seen in some parts of the market:

- EWS1 forms should not be a requirement on buildings below 18metres.
- In the small number of cases where there are known to be concerns these should be addressed primarily through risk management and mitigation.
- There should be a clear route for residents/leaseholders to challenge costly remediation work and seek assurance that proposals are proportionate and cost effective.
- Government should work with the shadow Building Safety Regulator to consider how to implement an audit process to check that fire risk assessments are following guidelines, not perpetuating the risk aversion we are witnessing, in some instances, at the present time.
- Fire risk assessors, and lenders should not presume that there is significant risk to life unless there is evidence to support this. This would ensure that they respond only to the evidence and adopt a far more proportionate and balanced approach.

19. This approach will support improvements in building safety while relieving the overwhelming majority of residents in flats from unnecessary financial burdens, uncertainty and the anxiety that understandably arises from the false perception that overall, homes in buildings of these heights are unsafe.

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