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Written statement to Parliament

Proportionality in building safety

Government response to independent expert statement on building safety in medium and lower rise blocks of flats.

From:
Ministry of Housing, Communities & Local Government
(<https://www.gov.uk/government/organisations/ministry-of-housing-communities-and-local-government>) and The Rt Hon Robert Jenrick MP (<https://www.gov.uk/government/people/robert-jenrick>)

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The following Written Ministerial Statement was made by Rt Hon Robert Jenrick MP, Secretary of State for Housing, Communities and Local Government on Wednesday 21 July 2021 in response to the Independent Expert Statement on building safety in medium and lower rise blocks of flats (<https://www.gov.uk/government/publications/independent-expert-statement-on-building-safety-in-medium-and-lower-rise-block-of-flats>).

Today marks the next major step on our path towards a robust, but proportionate, building safety regime. We seek a regime that delivers high standards of safety for people's homes, particularly those which are high-rise and therefore somewhat higher risk whilst providing reassurance to leaseholders, residents and the market that the overwhelming majority of homes are safe.

The Grenfell Tower tragedy and subsequent independent review of Building Regulations led by Dame Judith Hackitt, exposed serious issues in the regulatory system and construction of some high-rise buildings: developers cladding buildings in combustible materials that should never have been used; construction product manufacturers ignoring safety rules, gaming the system and rigging the results of safety tests; building owners failing to take responsibility for ensuring the safety of their residents; and the government's regulatory system lacking the strength and oversight to identify these failings and enforce standards.

That is why, as a government, we have taken a safety first approach in our response to buildings that we know to be higher risk – those over 18m. We have:

- Engaged Fire and Rescue Services to survey all buildings over 18m to assess their safety;
- Targeted government funding at the buildings we know to be at greatest risk if a fire spreads - those over 18m with unsafe cladding – investing over £5 billion to make those buildings safe as quickly as possible;
- Banned the use of combustible materials in new buildings over 18m, providing industry with a clear standard for the construction of new builds;
- Incentivised the installation of central alarm systems in high-rise buildings with a waking watch through our Waking Watch Relief Fund; and
- Today, we have reached Second Reading of the Building Safety Bill, our landmark legislation that brings forward the biggest improvements in building safety in a generation. The Bill introduces an enhanced safety regime for higher-risk buildings, defined as those over 18m (or seven storeys) - we have enshrined this scope on the face of the Bill.

The Fire Safety Act, which received Royal Assent in April will also ensure that the external walls of buildings are considered as part of routine fire risk assessments for all multi-occupied residential buildings. We are making good progress in bringing those high-rise buildings with unsafe cladding up to an acceptable standard of safety:

- Over 95% of buildings with 'Grenfell type' cladding identified at the beginning of last year have been fully remediated or have workers on site. By the end of the year, I expect works to have started on all buildings barring a handful of cases where ACM cladding has only recently been identified or where remediation works are especially complex. This means around 16,000 homes have been fully remediated of unsafe ACM cladding – an increase of around 4000 since the end of last year.
- Despite many buildings owners failing to provide adequate basic information, almost 700 buildings, with estimated remediation costs of £2.5 billion are proceeding with a full application to the Building Safety Fund. We have already allocated £540 million which means owners of over 60,000 homes and properties within high-rise blocks are covered by BSF applications and can

be reassured that unsafe non-ACM cladding on their blocks will be replaced. All eligible applications currently made to the Building Safety Fund will proceed, and we are working with applicants to ensure work gets underway as soon as possible. For any buildings that may have missed the original registration deadline we will be reopening for registrations in the Autumn. This will ensure we meet our commitment to fully fund the cost of replacing unsafe cladding for all leaseholders in residential buildings 18 metres and over in England. We currently forecast that works of some form will be supported by the Building Safety Fund on over 1,000 high-rise buildings.

- 191 buildings are already benefitting from the £30 million Waking Watch Relief Fund. More buildings will benefit from the fund as final decisions are made on applications. Leaseholders are expected to save on average £137 per month, or over £1,600 a year, on Waking Watch costs. It is right that we have taken a safety first approach and safety will always continue to be our priority and inform the decisions we make. However, it is also thankfully the case that fires in homes in England are extremely rare in all dwellings and I have become concerned to hear from leasehold residents feeling trapped in blocks of flats, particularly those lower than 18m in height. In many cases these residents have been held back from selling their homes and moving on with their lives because of excessive caution in the lending, surveying and fire risk assessment market. Understandably, this has caused some residents worry over safety and unnecessary costs due to a failure, on the part of many parties, to adequately explain the true nature of risk which statistics demonstrate is very low. I want to be clear – the vast majority of residents in all homes, including blocks of flats, should not feel unsafe in their homes. Residents need to be urgently reassured and the evidence presented clearly to them. And, other market participants need to exercise their professional judgement and not perpetuate this climate of extreme caution.

Driven by these concerns for leasehold residents, earlier this year I asked a small group of experts on fire safety to consider the evidence and advise me on steps that should be taken to ensure that a more risk-proportionate approach is taken to fire safety in blocks of flats. An approach through which genuine life safety risks are tackled swiftly, and where all blocks of flats meet statutory requirements on life safety, but where excessive caution and unnecessary costs are avoided.

The experts I commissioned were:

- 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, adviser on fire reform, former Chief Fire Officer

The key finding of this advice is clear – there is no evidence of systemic risk of fire in blocks of flats:

- Dwelling fires 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 significantly greater amount of time in their homes as a result of Covid restrictions.
- The vast majority of fires (91%) were in houses, bungalows, converted or low rise (three storeys or lower) flats or other properties, while only 9% were in blocks of flats of four storeys or more.

- Very few fires spread from the room where they start. 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.
- Any death in a fire is tragic, thankfully 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 just a decade earlier), of which only 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. I thank the Fire and Rescue Services for all that they do to keep us safe.

On this basis, the expert advice, which I have published today on gov.uk, reaches five recommendations to correct the disproportionate reaction we have seen in some parts of the market:

- EWS1 forms should not be a requirement on buildings below 18 metres.
- 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.

Having carefully considered these recommendations the government will support and act upon them.

Delivering real change for leaseholders requires a concerted effort from all participants in the market including, government, the Royal Institution of Chartered Surveyors (RICS), lenders and fire experts, and we have been working intensively with these groups.

As government, we are clear that we support the expert advice and the position that EWS1s should not be needed for buildings less than 18m. This position is a significant step and one supported by the National Fire Chiefs Council and the Institute of Fire Engineers.

Government will work with the Health and Safety Executive and others to explore ways to deliver an effective fire risk assessment audit process that ensures assessments are carried out in a risk-proportionate manner and do not recommend unnecessary and costly remediation works where they are not genuinely needed. We will also rapidly progress exploration of options to provide a clear route for residents and leaseholders to challenge costly remediation work.

It is crucial that all market participants show the necessary leadership to help end the nightmare that has impacted the lives of many leaseholders. I thank everyone for coming to the table and supporting the government's efforts.

I am pleased that all major lenders have welcomed this advice. HSBC UK, Barclays, Lloyds Banking Group and others have said that the expert advice, and our clear response, paves the way for EWS1 forms to no longer be required for buildings below 18m and will help further unlock the housing market. I hope and expect other lenders to follow suit swiftly. I am very grateful to these organisations for their constructive work with government on this critical issue - I appreciate that it is a complex and some parties have further work to do in which the government will support them.

Through concerted, cross-market action I believe we can help open up the housing market, allowing thousands to buy, sell or re-mortgage their homes.

This work will be progressed alongside existing steps we are taking to ensure a proportionate response to risk, this includes:

- Development of a new more risk-proportionate guidelines for fire risk assessors, including PAS9980. The Consolidated Advice Note, the product of the need for reliable safety information in the period following the Grenfell Tragedy will shortly be retired.
- Launching a government-backed professional indemnity insurance scheme for qualified professionals conducting external wall system assessments. This is aimed at supporting those qualified professionals to complete EWS1 forms, where genuinely needed, in a risk-proportionate manner and will help ensure that there is sufficient capacity in the market to allow EWS1 forms to be completed quickly, helping people to buy, sell and re-mortgage their homes. With the comfort government backing provides, professionals must exercise their judgement in a proportionate manner and refrain from proposing works that are not strictly necessary to achieve an acceptable standard of fire safety - and risk management and mitigation should always be considered before costly remediation.
- Working with the National Fire Chiefs Council to re-emphasise the scope of the simultaneous evacuation guidance, the temporary nature of waking watches and the alternative proportionate fire safety interventions to be considered before implementing a waking watch, particularly in buildings below 18m.

Latest indications are that the number of residential blocks between 11m and 18m in height are 61,000. Data from one major lender suggests that 7% of flats in buildings up to 6 storeys currently require an EWS1 assessment and in a majority of these cases EWS1s are found to already be held, leading to requests for an EWS1 form on approximately 5% of flats. Of these buildings, the vast majority do not need any remediation work at all. This is reinforced by initial results of surveys of medium rise blocks of flats indicating that the vast majority are free from serious safety risks associated with combustible cladding requiring remediation, and from any associated costs. If the market reacts as we would hope to the expert advice these numbers should reduce yet further and hundreds of thousands of leaseholders will be able to get on with buying, selling or re-mortgaging their homes. To reiterate, the government sees no reason why an EWS1 form, or equivalent, should be requested on buildings below 18m. For the very small number where works are required, the presumption in favour of mitigation should also reduce remediation costs.

It is my expectation that these actions will significantly ease the challenges faced by the vast majority of leaseholders looking to buy or sell flats in high-rise buildings and ensure that leaseholders do not face huge bills for unnecessary remediation works. In the very small minority of cases where remediation works are identified in 11m – 18m buildings as part of the normal statutory requirement for buildings to have an up to date fire risk assessment, I can reaffirm that leaseholders will be protected from unaffordable costs by a generous financing scheme through which their monthly cladding repayment costs will not exceed £50.

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