

The Fire Safety Bill

Committee stage

House of Commons

25th June 2020



Key messages

- The LGA has been calling for councils and fire services to be given effective powers and meaningful sanctions to ensure residents are safe – and feel safe – in their homes.
- We welcome the introduction of the Fire Safety Bill (FSB) and hope it will be an important step in the right direction. We are concerned about some of the practicalities of the Bill, how it aligns with the building safety proposals the Ministry of Housing, Communities and Local Government (MHCLG) is preparing, and the costs it may impose on councils and other building owners.
- The Government needs to ensure that there are enough trained professionals to carry out the new-style fire risk assessments. There is a chronic shortage of fire engineering expertise in the UK at present. The Government needs to act now to set up degree, conversion and apprenticeship schemes to address this – without more fire engineers the FSB may fail.
- Councils would also like government to clarify if existing fire risk assessments are still valid. There are half a million fire risk assessments in social housing and redoing them all in short order would be very expensive and logistically challenging. We understand this is not the Government's intention, but it would reassure councils if that was stated in Parliament.
- To ensure the legislation is successful in protecting lives, national government must ensure that local government is reimbursed for any additional costs arising out of the operational changes mandated by this Bill.
- The Government needs to provide an assurance that when the Building Safety Bill (BSB) is introduced it will be fully aligned with the amended Fire Safety Order to create a workable building safety system. At present we are concerned that disparities between the Fire Safety Order's concept of a Responsible Person and the proposals for an Accountable Person and a Building Safety Manager contained in the Government's response to the [Building A Safer Future consultation response](#) could confuse duty holders.
- The Government should not make councils and other freeholders responsible for issues beyond their control. The FSB makes duty-holders responsible for fire doors, even if they are owned by leaseholders. Requiring councils to inspect fire doors is likely to prove unworkable and extremely costly.

Briefing

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Amendment statements

- **Amendments 3, 4 and 5, tabled by Sarah Jones MP, Florence Eshalomi MP, Nick Thomas-Symonds MP, Taiwo Owatemi MP, Chris Elmore MP and Conor McGinn MP, intend to ensure that the key articles of the Regulatory Reform (Fire Safety) Order 2005 can be amended to account for the Grenfell Tower Public Inquiry Phase 1 and subsequently the Phase 2 recommendations and changes that may be brought about by the forthcoming Building Safety Bill.**

The LGA supports amendments 3, 4, and 5, as one of our priorities is ensuring that the Fire Safety Order is aligned with the forthcoming Building Safety Bill.

We are concerned that safety could be compromised and lives put at risk if the Fire Safety Order is not aligned with the new building safety regime that is envisaged in the Government's response to the Building a Safer Future consultation, which will be implemented through a Building Safety Bill, to be published shortly. Specifically, the Fire Safety Order refers to a Responsible Person, but it is unclear whether this aligns precisely with the Accountable Person or the Building Safety Manager referred to in the Building a Safer Future consultation.

The Building Safety Bill will place requirements on accountable persons to ensure that buildings in occupation are safe; this will include fire safety and will place enforcement responsibility with the new Building Safety Regulator.

The lack of clarity over the boundary between the Fire Safety Order and the Housing Act has been a complicating factor in resolving the issues with dangerous cladding on existing buildings.

- **Amendment 6, tabled by Sarah Jones MP, Florence Eshalomi MP, Nick Thomas-Symonds MP, Taiwo Owatemi MP, Chris Elmore MP and Conor McGinn MP, intends to ensure that the Bill be brought into force at the same time for all buildings it will apply to, rather than adopting a staged approach that may make arbitrary distinctions between similar premises.**

The LGA shares the concerns that have prompted this amendment to be tabled and organisations such as the National Fire Chiefs Council to support it, namely that there could be legal confusion if the Bill is not brought into force for all buildings at the same time. However, we believe that it is important that the Bill is not enforced unless there is capacity in the fire risk assessment industry to deliver its intentions. Without this capacity, we are concerned that councils who own residential buildings could be left without a valid fire risk assessment for those buildings and unable to obtain one that complies with the new regime.

Issues thrown up by the use of the EWS1 form (a form which allows those applying for a mortgage to prove to lenders that the building does not have a dangerous cladding system) have illustrated that there is currently both a lack of qualified experts who can sign off this assurance and a lack of professional indemnity insurance available to those undertaking such work.

Existing fire risk assessors may not have the necessary competence to provide a fire risk assessment that complies with the new order (we understand this to be the view of the Fire Industry Association).

It is further suggested that the effect of passing the order could be to render existing fire risk assessments invalid. The LGA does not necessarily share this view and we are aware that the Home Office has rejected it.

The LGA has figures that suggest the impact assessment that accompanies the Bill significantly underestimates the cost of carrying out new fire risk assessments.

- **New Clause 3, tabled by Daisy Cooper MP, intends to prohibit remediation costs being passed onto leaseholders and tenants.**

We support the aim of this amendment, namely, to stop freeholders passing remediation costs onto leaseholders and tenants. However, this amendment does not make provisions for costs to be met and we are concerned about some of the potential ramifications of this, such as freeholders walking away from their assets.

- **New Clause 5, tabled by Sarah Jones MP, Florence Eshalomi MP, Nick Thomas-Symonds MP, Taiwo Owatemi MP, Chris Elmore MP and Conor McGinn MP, intends to ensure a single assessment of risk is taken.**

We support this amendment. In buildings where residential flats sit above commercial premises, a fire in the commercial premises will affect the safety of residents in the flat. This risk needs to be considered holistically and while we accept that it is not practical for a single Responsible Person to be appointed covering several different businesses and residential premises, the fire risk assessment should be a single document.

- **New Clause 6, tabled by Sarah Jones MP, Florence Eshalomi MP, Nick Thomas-Symonds MP, Taiwo Owatemi MP, Chris Elmore MP and Conor McGinn MP, intends to clarify duties of owners or managers.**

We understand that the Government intends to consult on implementing the recommendations made in the Grenfell Tower Inquiry Phase One Report and is likely to implement the recommendations through secondary legislation.

In the consultation on the secondary legislation, the LGA will be making a point about ensuring that freeholders are not responsible for fire doors that they do not own. At present we are concerned that the Fire Safety Bill leaves freeholders, including councils, with a responsibility to consider fire doors when obtaining a fire risk assessment. This is impractical where the freeholder does not own the door. The alternative of granting the freeholder the right of entry to inspect the door is undesirable and impractical for doors. However, it may be necessary in relation to objects attached to the exterior of buildings.

We are therefore concerned about Part (b) of NC6 which stipulates:

“in respect of any building for which an owner or manager is responsible which contains separate flats, undertake regular inspections of individual flat entrance doors”.