

LGA Briefing

Fire safety and cladding

House of Commons

23 January 2019



Key messages

- We welcome the steps that have been taken to date to address dangerous cladding and other fire safety issues, including the ban on combustible cladding. However, the Government needs to act with urgency to deliver protections for residents in dangerous buildings as quickly as possible.
- Social housing providers are acting to protect residents. While some private landlords are doing the same, there is a significant issue with private landlords who are reluctant to act, are passing charges onto leaseholders, or sometimes cannot be identified.
- The Government needs to address the problems facing leaseholders in privately owned blocks who are being told that they are liable for the cost of remediation and the interim costs of interim fire safety measures.
- We pushed for action to identify and remediate other dangerous forms of cladding. The Government has taken some steps to achieve this, but more needs to be done.
- The LGA has pushed for Government to give social housing providers clear guidance on what materials can be used to replace unsafe aluminium composite material (ACM) cladding.
- We called for action to address shortcomings in legislation that are hampering efforts by councils and fire services to identify landlords and require them to undertake remedial work. We welcome the moves Government has made to do this through an addendum to the Housing Health and Safety Rating System.

Briefing

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Background

Causes of some building fire risks

While the detailed causes of the appalling fire at Grenfell Tower are still being investigated, it is now clear that it, and many other socially and privately owned tower blocks, have cladding systems that are dangerous.

Typically these cladding systems consist of insulation (which sits flush to the original wall) and cladding panels, with a gap between the cladding and insulation for ventilation (to avoid damp). This gap can act as a chimney in the event of a fire and so fire breaks are installed horizontally and vertically. The horizontal ones consist of intumescent strips which are normally 'open' but which close to form a fire break when heated.

This danger stems from three elements of the system:

- Flammable cladding: in particular Aluminium Composite Material (ACM) cladding with a plastic core (PE or FR).
- Flammable insulation: foam rather than mineral wool.
- The chimney effect.

Where blocks are suspected of having or shown to have dangerous cladding systems, the local fire and rescue service inspects and recommends mitigation measures that can be taken to reduce the risk to residents. These are likely to include a change to evacuation rather than 'stay put' response to fireⁱ accompanied by new alarm systems or a waking watch.ⁱⁱ

In the long term remedial measures, removing the cladding system and replacing it, are the only solution.

Social housing high-rise buildings: progress in remediation

Progress continues to be made in carrying out remediation to the 45 council-owned and 100 plus housing association-owned blocks with combinations of aluminium composite material (ACM) cladding and insulation that have been found not to meet the building regulation standards.

The statistics published by the Ministry of Housing, Communities and Local Government (MHCLG) on 10 January 2019 show that (as of 31 December 2018) remediation has started on 118, or around three-quarters, of the 160 social housing blocks. Work has finished on 37 of these buildings. Specifically in the case of the council blocks the cladding has already been removed from a significant majority, with the work underway to remove it from the remaining buildings.

The LGA is working with MHCLG and the National Housing Federation (NHF) to ensure that the experience and good practice from the remediation programme is shared across the social housing sector.

Privately owned buildings

Councils face challenges in identifying privately owned buildings with dangerous cladding systems and ensuring that owners introduce mitigation and remediation measures.

The task of identifying buildings with cladding that may be ACM is an extremely large one in some areas. After significant lobbying by the LGA and London

Councils, MHCLG announced a £1 million fund to assist those councils with particularly large numbers of buildings on 1 March 2018.

The latest statistics from MHCLG show there are 268 private high-rise buildings with ACM cladding systems that need to be removed. So far remediation work has begun on 18 of the private high-rise buildings with ACM cladding, and has been completed on 30 of them. Plans are in place for remediation on a further 126 buildings, and plans are being developed for a further 38 buildings. However, remediation plans still remain unclear for 56 buildings, and there are 13 buildings where the cladding status has still to be confirmed. In the case of these latter buildings councils have already issued enforcement notices on the vast majority of these blocks to obtain information on the building construction from the owners.

MHCLG has encouraged councils to use the Housing Act to take enforcement action. In order to encourage progress with remediation work the Government announced on 29 November that they had laid an addendum to the Housing Health and Safety Rating System (HHSRS) operational guidance, and would be writing to councils with buildings where it looks as if the owner will not be taking action to remediate unsafe ACM cladding to offer these authorities their full support in taking enforcement action.

The reference in the [Written Ministerial Statement](#) to an addendum to the HHSRS is to the further guidance that the LGA and London Councils suggested was needed early in 2018, and which we have been working with the London Councils, the National Fire Chiefs Council and MHCLG on the drafting of during the autumn. The addendum comes into effect by the end of January 2019.

The offer in the Written Ministerial Statement to support enforcement action by councils includes financial support where it is necessary for the council to carry out emergency remedial work. In these circumstances the expectation is that the council will seek to recover the costs of this work from the building owners who have failed to act.

While the Government has been able to persuade some building owners and/or developers to meet these costs, some building owners have taken the view that leaseholders are liable for them, as well as for the costs of interim fire safety measures. Leaseholders are not responsible for the failings that have led to flammable cladding being placed on blocks and they should not be expected to meet the costs of either interim measures or remediation.

The likelihood that leaseholders are able to organise in order to identify and sue the guilty parties seems slim. Even if they do, those responsible for installing dangerous cladding are likely to go out of business without paying up. These scenarios could lead to leaseholders becoming homeless and to councils having to take responsibility for rehousing them. Enforcement action alone cannot solve these problems and needs to be discussed as part of a wider strategy.

Ban on combustible cladding

In September 2018 the Government announced that it would be proceeding with the ban on the use of combustible materials on the external walls of high-rise buildings. MHCLG published its formal response to the consultation at the end of November and laid the regulations to implement the ban in Parliament. These regulations came into effect on 21 December (and can be found [here](#)).

The regulations apply to new residential high-rise buildings and institutions over 18 metres in height including hospitals, residential care homes, student accommodation, and dormitory buildings in boarding schools. This is in line with the LGA's call for the ban to apply to residential high-rise buildings and any

building where vulnerable people sleep; although in the latter case the LGA suggested the ban should apply irrespective of the height of the building.

The ban means that only materials which are classified as A1 or A2 under the European classification can be used on the external walls of the buildings in the scope of the ban, and covers all elements of construction from the outer to the inner faces. There are a limited number of materials exempted from the ban covering components where non-combustible alternatives are not currently available. As a whole the ban broadly reflects the points raised by the LGA when pressing for a ban on the use of combustible materials.

Wider building safety issues

The Grenfell fire has directly and indirectly led to an increase in concern around a number of building-safety issues, such as the apparent inability of glass reinforced plastic, flat front doors to meet their performance specifications in resisting fire for at least 30 minutes; the quality of strengthening work previously carried out on large pan system-built blocks; and the fire performance of spandrel panels. The LGA is working with MHCLG and NHF to investigate further and address these concerns.

One issue that the LGA has raised previously is the possibility that other forms of cladding may pose dangers similar to those posed by ACM. The Government has issued [advice](#) to building owners on other insulation systems including but are not limited to: Metal Composite Materials (MCM) faced with other metals such as zinc, copper, and stainless steel; High Pressure Laminates (HPL); and rendered insulation systems. This advice stresses the need for cladding systems to have met building regulations when they were installed. Nevertheless we remain of the view that more will need to be done to identify and remediate these systems in coming months and years

The future of building safety

In the long term it will be necessary to reform the fire safety arrangements for high rise buildings (as well as for some other buildings, including buildings with vulnerable residents) so that the fire safety enforcement role sits clearly with the fire and rescue services. This will ensure a holistic approach to fire safety in high rise buildings can be established bringing together the internal shared spaces, issues which may breach compartmentation, and external cladding. This is likely to require legislation and an expansion of the role of the fire and rescue service.

On 18 December MHCLG published 'Building a Safer Future', its plan for implementing the recommendations from the Hackitt Review of building regulations. This makes it clear that the Government will be taking forward all the recommendations in the Hackitt Review to:

- Create a stronger and more effective regulatory and accountability framework to provide greater oversight of the construction industry, with a stronger and more effective sanctions regime;
- Introduce clearer standards and guidance and improve the rigour of the product labelling, testing and marketing process;
- Put residents at the heart of the new system of building safety through better engagement between them and those managing their buildings; and
- Drive culture of change in the construction industry so there is increased responsibility for building safety, including improving the competence of those undertaking building work.

The LGA is working with MHCLG to develop the proposals for the new regulatory framework, to ensure that they are not unnecessarily bureaucratic, that they

support effective enforcement at a local level, and that local regulators have the powers and sanctions they need to drive necessary culture change.

ⁱ In many high rise blocks residents are advised to stay in their flats if a fire breaks out because the block is designed on the 'compartmentation' principle. Compartmentation relies on fire-proof barriers between flats and stairwells etc (such as solid walls or fire doors) to ensure that a fire will be contained for long enough to allow the fire service to arrive and put it out, before it can spread. Flammable cladding breaches compartmentation.

ⁱⁱ https://www.ifsm.org.uk/wp-content/uploads/2014/08/NFCC_Guidance_-_Waking_watch_and_Common_Fire_Alarm..pdf#page=6