



Meeting	Service Leadership Team	Agenda Item No.	5d
	Performance and Resources Board		9
Meeting Date	11 May 2021		
	28 July 2021		
Report Author	WM Lee Hurst / AM James Palmer		
Presented By	ACFO Moira Bruin		
Subject	Fire Safety Order Consultation and Gap Analysis		
Type of Report	Information		

RECOMMENDATIONS

None. The report and the preliminary gap analysis are for information.

OVERVIEW

The purpose of the consultation is to improve fire safety in all regulated premises by proposing to strengthen the Fire Safety Order (FSO) and improve compliance. It sought to implement the report from phase 1 of the Grenfell report and improve the effectiveness of consultation between Building Control bodies and Fire and Rescue Service (FRS)

Following the call for evidence that concluded in July 2019, this consultation was to ensure the FSO was fit for purpose. This report summarises the responses and sets out the next steps.

The purpose of the FSO was to bring the piecemeal legislation into one order. The key changes were the emphases on the duties on the responsible person (RP) and not the fire authority to put into place and maintain adequate fire precautions. All non-domestic premises were brought into scope, including common parts of residential buildings.

BACKGROUND

The fire safety bill aims to clarify the extent to which the FSO applies, this will be external walls and flat entrance doors or multi occupied residential buildings. This clarification brings phase one of the Grenfell inquiry in to being by requiring the RP to share information on external walls and flat front doors.

As well as the Fire Safety Bill, the Government is due to introduce the Building Safety Bill, bringing forward recommendations from the Dame Judith Hackitt review of building regulations and fire safety. It is proposed that the new building safety regime applies to high rise residential buildings of 18m or more than 6 storeys, whichever is reached first.

The main elements of the draft building legislation are:

- A new system to oversee the performance of building control functions, with local enforcement agencies and national regulators working together to ensure the safety of all buildings is improved.
- Clearer accountability for, and stronger duties on, those responsible for the safety of higher-risk buildings throughout design, construction, and occupation.
- Giving residents a stronger voice in the system, ensuring their concerns are never ignored and they fully understand how they can contribute to maintaining safety in their buildings.
- Stronger enforcement and sanctions to deter non-compliance with the new regime in order to keep buildings safe and hold the right people to account.
- A new stronger and clearer framework to provide national oversight of construction products to ensure all products meet high performance standards.

Under the Building safety Bill, the Accountable person(s) will be responsible for managing safety risks in all parts of a residential multi-occupancy high-rise building. Under the FSO this will be the RP, in most cases the accountable person(s) and RP will be the same.

Under Building Regulations 2010 (as amended) there is a requirement for Building control and approved inspectors to consult with the FRS on the FSO. Regulation 38 of the building regulations also requires specific fire safety information is handed over to the RP.

The Fire Safety consultation contained a number of questions to identify what, if any, policy and legislative changes are needed to improve fire safety. It outlined proposals designed to;

- Strengthen the FSO and improve compliance in regulated premises.
- Implement the Grenfell Tower Inquiry Phase 1 Report recommendations that require a change in the law.
- Improve the effectiveness of consultations between Building Control bodies and FRS on planning for building work and the arrangements for the handover of fire safety information.

A further consultation will be undertaken in the spring of 2021 to seek views on the complex issue of personal emergency evacuation plans (PEEPs) in relation to the proposals to implement further Grenfell recommendations relating to PEEPs.

With regard to the questions and conclusions, these were broken down into 3 sections;

- Strengthening of the Fire Safety Order and Improving compliance.
- Grenfell Tower Inquiry Phase 1 recommendations.
- Improve the effectiveness of consultation between building control bodies and Fire and Rescue Authorities.

Strengthening of the FSO and improving compliance.

There was a clear agreement that the FSO needs to be strengthened and improve compliance. The need for improving the quality of fire risk assessments was also clear by ensuring that fire risk assessors are competent. RPs should be required to record completed fire risk assessments.

There should be a method to record the RPs to improve cooperation and coordination where there are shared duties. There should also be a method of enhancing the provision of information between RPs and residents and ensure the preservation of fire safety information over a building's lifetime.

There was support for charging for formal enforcement activity (enforcement and prohibition) but less so for other enforcement activity.

It was agreed that other risk factors other than the buildings height should be considered when considering fire safety measures to mitigate them.

It was felt that strengthened guidance would be required if changes were made to ensure an understanding of any new regulations or requirements and assist with compliance.

From these responses the following action will be taken to amend the FSO through the Building Safety Bill to;

- Strengthen the provision relating to statutory guidance issued under article 50 (Guidance) of the FSO.
- Where the RP appoints a person to undertake or review the fire risk assessment, that person must be competent. This will be aligned with Article 18 Safety assistance. A person is to be regarded as competent for the purposes of this article where he has sufficient training and experience or knowledge and other qualities to enable him properly to assist in undertaking the preventive and protective measures.
- Require that all RPs must record their completed fire risk assessments and fire safety arrangements.
- Require that all RPs must record and keep updated their contact information, including a UK based address.
- Require that all RPs must make reasonable steps to identify themselves to other RPs (or Accountable Persons) where they share or have duties in respect of the same premises.
- Require that for all regulated premises in England and Wales, RPs must record the name of the individual, and organisation of persons engaged by them to undertake all or part of the fire risk assessment.
- Require that departing RPs must first take reasonable steps to share all relevant fire safety information with incoming RPs. If the RP does not have this information, the amendment will impose a requirement to obtain that information, unless it is not practicable for them to do so. Ensuring the preservation of fire safety information over a building's lifetime.
- Increase the level of fine from Level 3 (£1000) to Level 5 (unlimited) for offences in relation to the impersonation of an inspector, and failure to comply with requirements relating to the installation of luminous tube signs.

Further work is required to develop policy in relations to fees and charges for, false fire alarms, maintenance, the provision of information to residents and higher risk workplace buildings.

The Grenfell Tower Inquiry Phase 1 recommendations

These recommendations concentrate on high rise residential buildings. These are detailed and, in some cases, build on the FSO. Subject to the fire safety bill gaining royal assent, the Government intends to lay regulations before the second anniversary (October 2021) of the phase 1 report which will deliver on the inquiry's recommendations. These will include measures around checking fire doors and lifts.

The recommendations that would affect protection are;

- the owner and manager of every high-rise residential building be required by law to provide their local fire and rescue service with information about the design of its external walls together with details of the materials of which they are constructed and to inform the fire and rescue service of any material changes made to them;
- that the owner and manager of every high-rise residential building be required by law to provide their local fire and rescue services with up-to-date plans in both paper and electronic form of every floor of the building identifying the location of key fire safety systems and;
 - to ensure that the building contains a premises information box, the contents of which must include a copy of the up-to-date floor plans and information about the nature of any lift intended for use by the fire and rescue services.
 - where it is not already the case, that all fire and rescue services be equipped to receive and store electronic plans and to make them available to incident commanders and control room managers.
- that the owner and manager of every high-rise residential building be required by law to carry out regular inspections of any lifts that are designed to be used by firefighters in an emergency and to report the results of such inspections to their local fire and rescue service at monthly intervals;
- that the owner and manager of every high-rise residential building be required by law to carry out regular tests of the mechanism which allows firefighters to take control of the lifts and to inform their local fire and rescue service at monthly intervals that they have done so.
- that the government develop national guidelines for carrying out partial or total evacuations of high-rise residential buildings, such guidelines to include the means of protecting fire exit routes and procedures for evacuating persons who are unable to use the stairs in an emergency, or who may require assistance (such as disabled people, older people, and young children);
- that fire and rescue services develop policies for partial and total evacuation of high-rise residential buildings and training to support them;
- that the owner and manager of every high-rise residential building be required by law to draw up and keep under regular review evacuation plans, copies of which are to be provided in electronic and paper form to their local fire and rescue service and placed in an information box on the premises;
- that all high-rise residential buildings (both those already in existence and those built in the future) be equipped with facilities for use by the fire and rescue services enabling them to send an evacuation signal to the whole or a selected part of the building by means of sounders or similar devices;
- that the owner and manager of every high-rise residential building be required by law to prepare personal emergency evacuation plans (PEEPs) for all residents

whose ability to self-evacuate may be compromised (such as persons with reduced mobility or cognition);

- that the owner and manager of every high-rise residential building be required by law to include up-to-date information about persons with reduced mobility and their associated PEEPs in the premises information box;
- that in all high-rise buildings floor numbers be clearly marked on each landing within the stairways and in a prominent place in all lobbies in such a way as to be visible both in normal conditions and in low lighting or smoky conditions.
- that the owner and manager of every residential building containing separate dwellings (whether or not it is a high-rise building) be required by law to provide fire safety instructions (including instructions for evacuation) in a form that the occupants of the building can reasonably be expected to understand, taking into account the nature of the building and their knowledge of the occupants.
- that the owner and manager of every residential building containing separate dwellings (whether or not they are high-rise buildings) carry out an urgent inspection of all fire doors to ensure that they comply with applicable legislative standards;
- that the owner and manager of every residential building containing separate dwellings (whether or not they are high-rise buildings) be required by law to carry out checks at not less than three-monthly intervals to ensure that all fire doors are fitted with effective self-closing devices in working order
- that all those who have responsibility in whatever capacity for the condition of the entrance doors to individual flats in high-rise residential buildings, whose external walls incorporate unsafe cladding, be required by law to ensure that such doors comply with current standards.

There is a significant operational impact for both RPs and FRSs. Standardisation at a national level is required for consistency. The Home Office will work with key stakeholders and government departments to support operational implementation.

The Grenfell Tower Inquiry phase 1 recommendations need to take into account the provisions in the draft Building Safety Bill, it would be sensible to review the legislation arising from the Inquiry recommendations in implementation of the relevant parts of the BSB due to overlap.

Further views will be regarding PEEPs in the spring of 2021.

An amendment to Approved Document B will deliver a recommendation for buildings over 11m to have Premises Information Box.

Building control bodies consultation with fire and rescue authorities

The proposals that came from this section of the consultation will require implementation through the changes to both primary and secondary legislation and guidance, including the revoking of article 45 of the FSO (duty to consult enforcing authority before passing plans) to enable consultation requirements to be consolidated in building regulations. The provision for mandating Plans Certificates for FSO properties is also to be provided.

Further work is required on changes to the Regulation 38 (Fire Safety Information) within the building regulations 2010 to understand the pros and cons of strengthening Regulation 38 with regards to improving the process and robustness of the fire safety information handed over to the RP.

The FSO supporting guidance is being reviewed, the government will ensure that the guidance supports RPs, enforcing authorities, fire risk assessors and anyone else affected by the changes, so they understand their new duties.

OPTIONS AND ANALYSIS

Appendix A considers the proposals and the impact on ECFRS in greater detail.

Conclusion

There is no perceived single significant impact to ECFRS from the Fire safety consultation. As a whole there will be an impact on more than just the protection team alone.

There is likely to be a requirement for training colleagues from various teams across the service, within protection much of this could be captured in CPD.

The filling of the business engagement officer post and working with corporate communications and media could assist with informing those that are captured by the FSO of the changes and ensuring they have the information they need to comply.

There is some work to be done around sharing information with other departments in CFRMIS (or another system)

The additional areas that inspecting officers are expected to consider will increase the time taken to conduct an audit although this should not be significant as it does not apply to all premises.

There is some work by other departments that will need to be considered such as training and evacuation plans for high rise buildings and education on the Evacuation Alert Systems.

As a service we do need to consider the implications of premises information boxes and how this may affect operational crews with holding keys or access codes.

We also need to consider the increased workload from RPs informing the fire service of lift maintenance every month. Is this to be considered (such as dry risers) to be an operational concern or will protection be expected to be recording this information and chasing it, if it is not forthcoming? The admin work alone will increase.

It would be reasonable to expect an increase in enquiries from the public when new guidance and requirements are released and as a service we should be consistent, it would be prudent to have internal guidance to ensure consistency.

From a national level it is likely that the perceived guidance issued by the then Chief Fire Officers Association would need to be reviewed to capture some of the areas discussed and give updated guidance on the expectations of inspectors.

BENEFITS AND RISK IMPLICATIONS

The benefits of ensuring we are able to meet the requirements of the new order are that we are able to fully discharge our legal duties under the Fire Safety Order and protect the members of our communities.

FINANCIAL IMPLICATIONS

Not known at this time. Further work will be explored during the fuller gap analysis. There is a potential link to associated grant/surge funding.

EQUALITY AND DIVERSITY IMPLICATIONS

Is this decision anticipated to have an impact on any of the following protected groups as defined within the Equality Act 2010:

<i>Race</i>	<i>N</i>	<i>Religion or belief</i>	<i>N</i>
<i>Sex</i>	<i>N</i>	<i>Gender reassignment</i>	<i>N</i>
<i>Age</i>	<i>N</i>	<i>Pregnancy & maternity</i>	<i>N</i>
<i>Disability</i>	<i>N</i>	<i>Marriage and Civil Partnership</i>	<i>N</i>
<i>Sexual orientation</i>	<i>N</i>		

WORKFORCE ENGAGEMENT

Protection teams and enforcement officers are sighted on the new bill. ECFRS has been fully involved in the consultation.

LEGAL IMPLICATIONS

ECFRS has to ensure we are able to discharge our duties under the new fire safety order.

HEALTH AND SAFETY IMPLICATIONS

Safer buildings mean improvements in terms of health and safety – for residents and for responding crews in the event of a fire.