30 July 2018

Title of consultation
Independent review of building regulations and fire safety: Listening Exercise

Organisation
Ministry of Housing, Communities and Local Government

Introduction

London Fire Brigade (LFB) is London’s fire and rescue service - one of the largest firefighting and rescue organisations in the world and we are here to make London a safer city. Decisions are made either by the London Fire Commissioner (the statutory fire and rescue authority for Greater London), the Mayor of London or the Deputy Mayor for Fire and Resilience. A Fire, Resilience and Emergency Planning Committee of the London Assembly holds the Commissioner, Mayor and Deputy Mayor to account.

The London Fire Commissioner is the enforcing authority for the Regulatory Reform (Fire Safety) Order 2005 in London. The Order applies to virtually all buildings, places and structures other than individual private dwellings and relates to fire safety in parts of blocks of flats which are used in common by more than one flat.

London is a complex city in terms of risks, density, population and building type. As the fire and rescue service for London, LFB has extensive experience of this complicated built environment and how it is regulated. LFB has a role in the building control process, dealing with new buildings when they are being proposed and constructed. LFB enforces fire safety legislation in occupied buildings across the city and provides emergency response to fires and investigates the causes of fires. Through all these roles LFB has an overview of the current state of building regulations and fire safety in the most complex built environment in the UK.

Executive summary

LFB believes Dame Judith Hackitt’s Independent review of building regulations and fire safety (“The Independent Review”) report is a positive first step towards a system which puts public safety first and which provides a framework for meaningful reform.

The Government must now urgently provide the structures and the detail needed to ensure this framework is implemented into a system of building regulations which will ensure a tragedy like Grenfell never happens again.
LFB agrees with Dame Judith that the vast majority of reforms need to apply to all buildings. There must be strengthened regulatory oversight, more clarity of roles and responsibilities, raised competence levels across the sector and better quality and performance of construction products. This needs to apply to all buildings through their entire lifetime, from initial design, specification and construction right through to later maintenance and refurbishments.

Although we welcome some of the specific recommendations for High Risk Residential Buildings (HRRBs) we would like to see the definition of what that constitutes widened to buildings above 11m in height, if not immediately, then eventually. LFB would also like to see more safeguards in place for people who live in buildings which fall outside the HRRB (however that is defined) and specifically for people who are vulnerable, such as those living in care homes or supported living.

The initial scope of the Independent Review did, however, mean that opportunities were missed – such as an opportunity to again look at the important role that the use of sprinklers and other automatic fire suppression systems could have in making buildings safer and we hope that the implementation of the reforms will look at the whole system and all the possible solutions.

LFB response

This response is structured under headings which correspond to the chapters of the Final Report from the Independent Review.

Chapter 1: Parameters and principles of a new regulatory framework

1.1 LFB welcomes the risk-based approach which would mean that premises that have greater risk to life in the event of a fire are given greater scrutiny throughout its lifecycle. However, we question the definition used to categorise High Risk Residential Buildings (HRRBs) in two particular regards.

1.2 Firstly, on the limitation of the definition to buildings that are ten-storeys or more. This definition was reached using data from 2010 to 2017 showing much higher levels of fatalities for buildings of ten storeys or more. Prior to June 2017 and the tragic loss of life in the fire at Grenfell Tower the statistics are much less conclusive on the increased risk above ten storeys. LFB would like to see the safeguards put in place for a wider group of buildings.

1.3 We recognise that there is an initial trade off between the number of buildings that fall into the HRRB category and effective and swift implementation of the new regulatory regime, but we would like to see any legislation that is put in place allow for a much wider group to be considered as HRRBs in the future if they are not included from the outset. We would want to see legislation that enables all residential buildings above 11m in height to be eventually considered as HRRBs. 11m is the height to which the firefighting ladders used across England are able to access in order to carry out rescues externally. The 18m used in current building regulations B5, such as where there is a requirement for specific fire fighting facilities (e.g. dry risers) was based on the height reached with “wheeled escape ladders”. These were once in widespread use across the UK, but practical issues concerning the weight, maintenance and limited ability to access buildings beyond obstacles such as alleys and fences means that they have not been in widespread use since the late 1980s.
1.4 Secondly, LFB and other fire and rescue services have provided extensive evidence that the vulnerability of individual occupants has a huge impact on their risk of death and injury from fire. We want to see the scope of HRRBs to be widened to include other higher risk residential buildings such as residential care homes and specialised housing, regardless of their height.

1.5 LFB would like to see the criteria widened in both these ways but acknowledge that this brings a significant additional amount of premises into scope as HRRBs. If this cannot be achieved initially we would like to see a firm commitment to widening the definition of HRRBs over a specified time frame. LFB would welcome discussion with the implementation team to provide evidence of our rationale with regards to the increased scope.

1.6 LFB supports the recommendations of the Independent Review on incident reporting and whistleblowing. We welcome the proposals for a system of mandatory occurrence reporting for HRRBs, with a system of confidential reporting in place for other buildings and a clear whistleblowing policy to the Joint Competent Authority (JCA) to allow those within the process to have a defined route to raise concerns. We would, however, like to see clarity on what would constitute an incident under mandatory reporting.

1.7 A stronger regulatory framework must have appropriate governance. As such we welcome the principles behind the creation of the JCA providing oversight, scrutiny and enforcement. However, until there is a clear vision of how it will operate, it is impossible for LFB to fully endorse this version of the JCA. Our initial questions include:

- How would the JCA deal with disputes between regulators (highlighted in the example in recommendation 2.12)?
- How much depth of involvement the JCA would be expecting to have on individuals projects?
- How will the JCA be funded and resourced?

1.8 LFB would welcome discussion with the implementation team about our proposals on how the JCA could operate effectively and provide the more robust framework that the final report, and we, are seeking.

Chapter 2: Design, construction and refurbishment

1.9 LFB strongly agrees with the emphasis placed by the Independent Review on defining more clearly who holds which responsibilities and proposals to increase accountability. LFB supports the appointment of a clear dutyholder throughout the lifecycle of the building to ensure accountability.

1.10 LFB supports both the concept of Gateway Points whereby dutyholders must convince the JCA they have met requirements before they can move to the next stage and the specific gateway points set out in Table 4 (page 38). These permission points are critical in supporting culture change and approach to fire safety.

1.11 LFB supports stronger sanctions and the need for a system that provides effective enforcement, including the use of a staged approach comprising education, statutory notices, fines and ultimately criminal sanctions. We also support the lengthening of the
time limits for bringing prosecutions against duty holders from two to ideally six years for major deficiencies in building requirements identified at a later date.

Chapter 3: Occupation and maintenance

1.12 LFB supports the introduction of a new responsibility on the dutyholder to provide safety cases to the JCA as a way of ensuring that the building is regularly being checked and maintained. We also support the recommendation to move away from the 'non-worsening' principle to one of ensuring a block is safe ‘so far as reasonably practicable’. This approach also supports the intent of the fire safety legislation – the Regulatory Reform (Fire Safety) Order 2005 in driving for continual improvement in fire safety standards.

1.13 The current regulatory system has created an unacceptable risk gap between the Housing Act and the Regulatory Reform (Fire safety) Order and the JCA being able to regulate across all parts of an HRRB will go some way to mitigating this. It is also vital that residential buildings which are not classed as HRRBs have similar clarity for who regulates them, even if the definition of HRRB is widened. Paragraph 3.5 of the Independent Review sets out that ‘local authorities and fire and rescue authorities should work more closely in tandem to ensure that the whole building is appropriately inspected’. This does not offer the certainty needed to resolve the current issues seen in buildings which fall outside of the current HHRB definition and it has been demonstrated in the past that this approach does not work.

1.14 We welcome the recommendation that a dutyholder should be responsible for ‘all parts of the building’, but would ask that this be defined more specifically to ensure that the rights and responsibilities of leaseholder occupied homes are unambiguous.

Chapter 4: Residents voice

1.15 LFB welcomes increasing the role of residents through engagement, training and the named Building Safety manager in each building. We know from experience that residents who are in the buildings day-to-day are a good source of information about how the building works.

Chapter 5: Competence

1.16 LFB believes that competence is the single most important issue in building regulation and fire safety. It is the common thread through the majority of the issues highlighted within the Independent Review and LFB’s submission to it. The correct level of competence in each role for every scheme is a critical issue.

1.17 LFB believes for certain risk critical elements in high risk buildings there should be mandatory qualifications or recognition to demonstrate competence e.g. Fire Risk Assessors should be on a register approved by the Fire Risk Assessment Competency Council.
Chapter 6: Guidance and monitoring to support building safety

1.18 LFB strongly supports the conclusions of the Independent Review on the need for clearer fire safety guidance and a more holistic approach to redrafting Approved Documents. We agree that a crucial part of this is that these should be subject to a regular review at defined periods with the option for interim reviews where there a need is identified. However, LFB does not support the concept that responsibility for that drafting should sit with industry, even with government support and validation. Although government provide regulations, clear and unambiguous guidance is an essential part of the system if the new regulatory framework is to be successful. We do not agree that industry is best placed to develop that. Government-backed statutory guidance is the way, as an enforcing body, we can prove that a responsible person has not complied. If guidance is not clearly Government backed it can be ignored – an example is the NFCC Specialised Housing Guide, produced by the sector, which we saw widely not complied with.

1.19 We support recommendation 6.2 for a new structure to validate and assure guidance, oversee the performance of the built environment sector and provide expert advice. We would seek for this to operate as a transparent and open system and for it to ensure industry to provide feedback and evidence to this new structure.

1.20 LFB supports a review of Approved Document B as an opportunity to reflect and consider how firefighting operations and equipment have changed and developed and firefighting facilities need to be updated accordingly. LFB also supports this as the best vehicle to ensure that the provision of Automatic Water Suppression Systems (AFSS) is revisited. LFB’s position on sprinklers and other AFSS is that they play a significant role, as part of an appropriate package of fire safety measures, in reducing the impact of fire on people, property and the environment. They also assist firefighters in carrying out search and rescue operations by limiting fire development, which significantly reduces the risks to firefighters. LFB’s position on sprinklers and other AFSS is set out in Annex 1 of this response.

1.21 LFB strongly supports the introduction of periodic review of the effectiveness of the overall system of building regulations and agrees five years is a reasonable timeframe for that.

Chapter 7: Products

1.22 LFB supports the call of the Independent Review for a robust testing programme to demonstrate compliance of products, and agrees that and competent people are needed to assess the products and design the testing regime. LFB would also like to see a transparent way for test results to be shared so that detail is available and readily understandable by competent parties to enable them to make decisions about whether products are appropriate for use in particular settings.

Chapters 8–9: Golden thread of building information, Procurement and Supply

1.23 LFB supports the recommendations in these chapters.
Next steps

LFB would welcome detailed discussions with the implementation team to ensure that public safety is at the forefront of the new regulatory framework being proposed.
**About the authors**

**Lynsey Seal** is the joint head of LFB Fire Engineering Group and is a Chartered Engineer with the UK Engineering Council. A qualified mechanical and fire engineer, Lynsey joined LFB in 2004 and has extensive experience within the Building Regulations consultation process taking the fire engineering lead for LFB on major projects including the Athletes’ Village for the London Olympic Games and the Stratford City development.

Lynsey is the vice chair of the Institute of Fire Engineering (IFE) special interest group for competency and ethics and sits on the IFE Registrants Group committee. She also represents LFB on liaison groups with both London District Surveyors Association (LDSA) and The Association of Consultant Approved Inspectors (ACAI).

**Gareth Steele** is the joint head of the Fire Engineering Group at LFB. Having worked in LFB Fire Safety Regulation for over thirteen years, Gareth began his fire safety career as a Fire Safety Inspecting Officer, a Fire Safety Team Leader and then moved to LFB Headquarters in the Policy and Enforcement Team before joining the Fire Engineering Group.

Gareth sits on the National Fire Chiefs Council (NFCC) Fire Engineering Technical Standards (FETS) group, and on advisory committees for several research projects. He sits on various BSI parent committees including Fire Safety Engineering (FSH/024), Fixed Fire Fighting Systems (FSH/018) and Smoke, Heat Control Systems and Components (FSH/25), and several subcommittees along with other industry guidance committees such as the Smoke Control Association (SCA) guidance on tall single stair offices guide which is currently in draft. He is a member of the IFE Special Interest Groups for Fire Resistance and Computational Fluid Dynamics. Recently Gareth has drafted and reviewed national guidance relating to remedial and interim measures on tall buildings containing combustible cladding.

**Nick Coombe** is the LFB Strategic Technical Advisor and Nick’s 37 years’ service, which includes 24 in Fire Safety for the London Fire Brigade, has spanned many roles including Inspecting Officer, Team leader, Head of Fire Safety Training, Enforcement Manager and Head of Fire Safety Policy. He has directly supported the development of DCLG guides and as the Chair of NFCC RRO working group is the lead for the production of policies and guidance on the RRO to UK fire and rescue services. Nick is also the current Vice chair for NFCC Protection and sits on the Fire Risk Assessment Competency Council and BSI Standard. He is the IFE Vice Chair of their Fire Risk Assessment Register.
Automatic Fire Suppression System (AFSS)

Position Statement

1 Introduction
1.1 London Fire Brigade (LFB) believes that Automatic Fire Suppression Systems (AFSS) play a significant role, as part of an appropriate package of fire safety measures, in reducing the impact of fire on people, property and the environment. They also assist firefighters in carrying out search and rescue operations by limiting fire development, which significantly reduces the risks to firefighters.

1.2 There is clear evidence that AFSS (also referred to as Automatic Water Fire Suppression Systems - AWFSS), such as sprinklers and watermist systems are effective in the rapid suppression of fires. We therefore recommend AFSS in the following building types to protect those living in, working in and visiting London:

2 Residential premises
2.1 While current Building Regulations recognise that all new residential buildings in excess of 30m height should be provided with AFSS, LFB are of the opinion that this should be extended to existing buildings and that is that the appropriate height is 18m in both cases. We therefore recommend AFSS in:

- All new residential developments over 18m in height.
- Existing residential blocks over 18m in height (retrofitting), subject to a risk-based approach that should include consideration of the vulnerability of the residents.

3 Schools
3.1 Building Bulletin 100 (BB100): Design for fire safety in schools, published in 2007, introduced the ‘expectation’ that all new schools would have AFSS installed. We recommend that:

- AFSS is mandatory in all new school builds and as part of major refurbishments.

4 Care homes and sheltered (specialised) accommodation
4.1 We recommend the inclusion of AFSS in:

- All new residential care homes and sheltered (specialised) accommodation.
- Existing residential care homes and sheltered (specialised) accommodation (retrofitting), subject to a risk-based approach that should include consideration of the vulnerability of the residents.

5 Other priorities
5.1 We also strongly advocate the use of AFSS in the following premises:

- All homes occupied by the most vulnerable in our communities.
• All other residential properties which include hotels, hostels and student accommodation, over 18m in height.
• All new London Fire Brigade buildings.

6 Other premises

6.1 We will also continue to promote the installation of AESS within the following types of properties throughout London:
• Heritage buildings.
• Complex and deep sub surface structures such as basements.
• Large warehouses.

Additional information supporting this statement is available on the London Fire Brigade website:
http://www.london-fire.gov.uk/sprinklers.asp