



NFCC
National Fire
Chiefs Council

The professional voice of the
UK Fire & Rescue Service

National Fire Chiefs Council
West Midlands Fire Service
99 Vauxhall Road
Birmingham
B7 4HW

Telephone +44 (0)121 380 7311
Email info@nationalfirechiefs.org.uk

Building a Safer Future – Send us your views
The Future Policy Unit
Ministry of Housing, Communities and Local Government
2nd Floor SW, Fry Building
2 Marsham Street
London
SW1P 4DF

United Kingdom

Sent via email to: HackittResponse@communities.gsi.gov.uk

31 July 2018

To the Ministry of Housing, Communities and Local Government,

Thank you for inviting the National Fire Chiefs Council to respond to the final report from Dame Judith Hackitt – *Building a Safer Future*. Attached is the NFCC's response.

The NFCC is the professional voice of the UK fire and rescue services, and is comprised of a council of UK Chief Fire Officers. This submission was put together through the NFCC's Protection and Business Safety Committee. The Committee is comprised of protection and fire safety specialists from across the UK. All fire and rescue services in the UK have been consulted on this response.

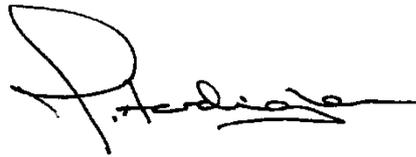
The Grenfell Tower fire was a tragedy that must never be repeated. The NFCC has welcomed Dame Judith Hackitt's report, and her determination to fix the system. There are many positive recommendations which we welcome. We believe there are areas where further work is required, and we look forward to engaging with the Government to support the development of proposals to achieve Dame Judith's vision.

We would welcome the opportunity to discuss any of these matters in further detail, including how they can be established and resourced in the future.

Yours sincerely,



Roy Wilsher OBE, QFSM
Chair, National Fire Chiefs Council



Mark Hardingham
NFCC Protection and Business Safety
Committee Chair



Building a Safer Future NFCC response to Dame Judith Hackitt's final report

To: The Ministry of Housing, Communities and Local Government

Date: 31 July 2018

Background

The National Fire Chiefs Council (NFCC) has welcomed the engagement with Dame Judith Hackitt and her team since the release of the interim report in December 2017. The NFCC were pleased to be involved in the working groups set up by the review. The inclusive consultation process indicates a welcome direction of travel.

Coordinated through the NFCC's Protection and Business Safety Committee, our input has benefited from the insight, expertise and challenge of a wide spread of fire and rescue service experts.

Introduction

The NFCC broadly support Dame Judith Hackitt's report. We would like to see Government action on most of the proposals, and in some areas we believe there is opportunity to go further. Many of the recommendations should apply to all buildings. This would support the drive for cultural change to the fire safety design, construction and ongoing management and maintenance of buildings.

Careful consideration should be given to ensure that we do not create a two tier system to the safety of our building stock.

1. A new regulatory framework

The Government should widen the definition of HRRBs to begin with residential buildings 18m and above as a minimum, and include places where vulnerable people sleep. There should be a longer-term aim to move towards 11m.

The Government must commit to a specified timeframe in which to review implementation, and extend the recommendations to other parts of the sector

The NFCC supports the principle of a strengthened regulator

In order to be successful, the current overlap in legislation must be resolved through new primary legislation

- 1.1 The definition of a Higher Risk Residential Building (HRRB) as 'Residential buildings 10 storeys and above' is too narrow.
- 1.2 We appreciate the intention was an approach which can be realistically implemented, with the possibility for similar principles to be applied to other high-risk premises in the short, medium and longer term.
- 1.3 Many of the recommendations would benefit the entire market. It is crucial that we do not create a situation that simply crowds low competency actors and poor quality from one part of the market, into another – potentially into parts of the market where consumers may have less financial resilience.
- 1.4 The starting point should be residential buildings 18m in height (with a longer term aim of moving to 11m over time), and should include other buildings based on the vulnerability of occupants, such as residential care homes and specialised housing regardless of their height.
- 1.5 The Government should commit to a specified timeframe within which the implementation and definition of HRRBs will be reviewed, and when the roll-out of recommendations to other buildings will be considered. Phasing to other buildings should be based on a detailed analysis of risk.
- 1.6 It was disappointing that no consultation was undertaken on the definition of HRRBs. The vulnerability of occupants and factors such as age, infirmness, illness, and disability has a huge impact on their risk of death and injury from fire. The definition also takes no account of external access to the building for firefighting.
- 1.7 The analysis in the report appears to be a by-product of the Incident Recording System and the limitations this imposes, rather than a nuanced consideration of risk. The report quotes a higher rate of fire-related fatalities in blocks of 10 storeys or more when compared to below 10 storeys. While this is true, in the seven years prior to Grenfell, there was little difference between the rate of fatalities (per 1,000 fires) between these categories.
- 1.8 Between 2010/11 and 2016/17, there were 51,683 fires in blocks of 1 – 9 storeys, compared with only 5,950 fires in blocks 10 storeys and above. This is almost 8.7 times as many fires attended in low and medium rise blocks than high-rise blocks. Whilst Grenfell must be central to our considerations, the analysis misrepresents the difference between risk in a 9 storey building vs. a 10 storey building, in a way which is arbitrary and unhelpful.
- 1.9 We would like to see all residential buildings above 11m in height 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.

- 1.10 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.

A Joint Competent Authority

- 1.11 A stronger regulatory framework must have appropriate governance; as such the principles behind the creation of a strengthened regulator providing oversight, scrutiny and enforcement is welcomed.
- 1.12 The NFCC welcome the intention to standardise how buildings and subsequent building work is signed off through Local Authority Building Control and the regulator, ending the practice of contractors and designers choosing their own regulator. We welcome the intention to give FRAs the authority to delay sign off if they have been unable to make a proper assessment.
- 1.13 Until further detail is proposed on how a Joint Competent Authority (JCA) would operate, it is difficult to comment on a particular version of the JCA. The NFCC's initial views are that the JCA:
- should be a national body, with dedicated resourcing, that would set a framework and standards for local areas to work with
 - would offer advice on difficult cases, and in areas that do not have many high risk developments
 - become a body that seeks out and shares good practice and emerging approaches
 - be a contact for whistleblowing.
- 1.14 Key design features will include how the JCA might deal with disputes between regulators and how much depth of involvement the JCA would be expecting to have on individual projects.
- 1.15 The NFCC looks forward to working collaboratively with Government and other partners to work through this in more detail.
- 1.16 To succeed, the current overlap in legislation must be resolved through new primary legislation. New penalties and sanctions should create an effective deterrent against non-compliance.

2. Design, construction & refurbishment

New Gateway points are an essential minimum step towards culture change

- 2.1 The NFCC welcome the appointment of a clear dutyholder throughout the lifecycle of the building to ensure accountability.

- 2.2 The NFCC supports the proposed Gateway Points whereby dutyholders must convince the regulator they have met requirements before they can move to the next stage. These principle permission points must be introduced as a minimum to achieving culture change, and we believe they should apply for all buildings.
- 2.3 NFCC support stronger sanctions and the need for a system that provides effective enforcement, including a staged approach which can end in potential custodial sentence. We also support the lengthening of the time limits for bringing prosecutions against duty holders (to five or six years) for major deficiencies in building requirements identified at a later date.
- 2.4 The NFCC welcomes the proposal for a cost recovery model to create a fund for enforcement action, and would welcome further consultation on this.

3. Occupation and maintenance

The dutyholder approach should be extended to apply to all buildings

The dutyholder should be required to identify themselves to relevant agencies

NFCC supports the principle of safety case reviews

New primary legislation must be brought forward that resolves the interface issues between the Housing Act and the Fire Safety Order

- 3.1 The new responsibilities of the dutyholder to provide safety cases to a strengthened regulator, and increase the role of residents (through engagement, training and the named Building Safety manager in each building) is welcomed.
- 3.2 Dutyholders should be required to provide the name and contact details of an authorised representative in England / Wales; this should apply to all buildings. The dutyholder should also be required to identify themselves to relevant agencies, rather than needing to be tracked down. This should be backed up by sanctions for failure to do so.
- 3.3 We welcome a move away from the 'non-worsening' principle to one of ensuring a block is safe 'so far as reasonably practicable'. This approach supports the intent of continual improvement in fire safety standards.
- 3.4 We welcome incident reporting being compulsory for HRRBs, with a widespread confidential reporting system for other building types (clarity is required over what constitutes an incident).
- 3.5 We welcome protection guaranteed to whistle-blowers as essential for promoting a safety culture across the industry and throughout the life of a building.
- 3.6 The current system has created a long recognised and unacceptable risk gap between the Housing Act and the Regulatory Reform (Fire safety) Order. The report notes this is one of the single biggest problems in the current landscape.

- 3.7 A regulator with jurisdiction for all parts of a HRRB will go some way to mitigating this; but the interface between the governing pieces of legislation must be resolved for this to be successful. A future built on hope that closer working relationships will overcome regulatory barriers does not offer the certainty needed.
- 3.8 We are also concerned there are no recommendations to address these issues for buildings outside of scope. A new regime for a select set of buildings, creates two regimes across an already confused residential sector. This could lead to greater fragmentation and confusion over who the regulator is.
- 3.9 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 included unambiguously.

4. Residents' voice

- 4.1 Residents should have the right to access fire risk assessments, safety case documentation and information on maintenance and asset management that relates to the safety of their homes. Clarity is needed on how the areas to be covered by the proposed body will overlap with existing regimes, and whether this will be clear for residents.

5. Competence

- 5.1 NFCC support the direction of travel on competence, and is pleased to be working collaboratively with sector partners towards recommendation 5.2. Competence is the most important issue, and a common thread through the majority of issues highlighted. The correct level of competence for every role and every scheme is key. The NFCC is undertaking a full review of our own Competency Framework for Business Fire Safety Regulators, with the intention of submitting this to the new Fire Standards Board once established.
- 5.2 For certain risk critical elements 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.

6. Guidance & Building Regulations

A new governance structure for the built environment is needed, and it should be open and transparent

Sprinklers should be a requirement in all new builds 18m and above, and retrofitted in existing buildings 30m and above.

- 6.1 We support recommendation 6.2 for a new structure to oversee the built environment and relevant guidance. NFCC support the need for clearer fire safety guidance, and a more holistic approach to redrafting Approved

Documents. These should be subject to a regular review at defined periods, with the option for interim reviews where there is a need identified.

- 6.2 NFCC would caution against a structure where industry can draft their own rules. While we support the principle that relevant experts are best placed to understand safety and innovation in their own sectors, the cultural issues identified highlight why this sector requires strong oversight.
- 6.3 Strong regulations and clear, unambiguous guidance is an essential part if the new regulatory framework is to be successful. The new structure should operate as a transparent and open system which also allows industry to provide feedback and evidence to them for their consideration.
- 6.4 The provision of Automatic Water Suppression Systems should be revisited through the current review of Approved Document B. This also provides an opportunity to reflect and consider how firefighting operations and equipment have changed and developed and firefighting facilities need to be updated accordingly.
- 6.5 The review of ADB should specify that sprinklers are a requirement in all new high-rise residential structures above 18m (or as defined in any revised ADB). Student accommodation should be included in this category of building.
- 6.6 Where existing high-rise residential buildings currently exceed 30m there should be a requirement to retro fit sprinklers when these buildings are next scheduled to be refurbished. NFCC recommend that sprinklers should be retro fitted at the earliest opportunity where high-rise residential buildings over 30m are served by a single staircase as this presents a far greater risk in terms of potential evacuation.
- 6.7 The NFCC position statement on sprinklers can be found here: https://www.nationalfirechiefs.org.uk/write/MediaUploads/Position%20statements/Protection/AWSS_Position_statement.pdf

7. Products

- 7.1 We support a robust testing programme to demonstrate compliance. Competent people are needed to assess the products and design the testing regime. This should be accompanied by a clarity and transparency of the test results such that detail is available and readily understandable by competent parties as to where, and where not, products can be used.
- 7.2 Specifically, the NFCC supports calls by the review for:
 - greater transparency on the number of test passes and failures recorded for construction products
 - manufacturers to ensure that product limitations are adhered to, and provide clear statements on what products can and cannot be used for, without further testing
 - the application of products to be communicated in plain non-technical and consistent language.

- 7.3 We support recommendations for market surveillance of construction products at a national level, and we look forward to further proposals on how the Government can ensure more effective enforcement and complaint investigation to cover construction product safety.

8. Golden Thread

The NFCC support a digital by default standard of record keeping

The Government should undertake a strategic review of digital information on the built environment which prioritises public safety and national resilience

- 8.1 The NFCC supports the digital by default standard of record keeping recommended by Dame Judith, including the new proposed digital information products. The process for identifying potentially dangerous buildings with ACM cladding has been long and difficult. Fire and rescue services have been prioritising visits to all notified risks, but 13 months after the tragedy at Grenfell, central agencies and local authorities are still working through buildings with unknown cladding status.
- 8.2 The cause of this has been no appropriate central information about the built environment. The Ordnance Survey, through AddressBase Premium, has some information and the potential to hold more. Buildings are critical to public safety. There are existing databases of information about buildings with information that could be better utilised to improve public safety and which could be brought together (e.g. Valuation Office Agency data about building use).
- 8.3 Access to better information about buildings and their use could assist emergency services and save crews time. It would help to identify certain property types, such as care homes or housing association premises, and parts of buildings that are mixed use. This could assist FRSs to target inspections.
- 8.4 Therefore, in addition to Dame Judith's recommendations, the NFCC believes the Government should undertake a review of information on the built environment held by government departments and agencies, to identify opportunities for improving public safety.

9. Procurement

- 9.1 The NFCC welcome the recommendations that: contracts should specifically state that safety requirements must not be compromised for cost reduction; tenders should set out how solutions will produce safe building outcomes, and contracting information should be included within the digital record.

10. Implementation

A detailed resource impact assessment for fire and rescue services will be needed before fire and rescue services can absorb additional responsibilities

The process for implementation requires central leadership and coordinated governance

A robust digital solution should be developed and agreed for the identification of HRRBs, supported by appropriate additional burdens funding if and where appropriate

- 10.1 Implementation of Dame Judith's proposals requires central leadership and coordinated governance. The process for embedding the change required cannot be left to industry. The Government should establish an appropriate structure for delivering the adopted recommendations that is accountable to Ministers.
- 10.2 We have referred to the difficulty we have experienced in identifying other potentially dangerous buildings since the Grenfell fire. The NFCC believes that the outcome of this review must establish a better, digital process for the identification of HRRBs if this is to be successful and become a new fit for purpose approach.
- 10.3 The NFCC welcomes the review's findings that fire and rescue services need sufficient capacity through suitably qualified Fire Safety Officers to effectively implement Integrated Risk Management Plans, Risk Based Inspection Programmes and discharge their statutory duties in relation to inspection and audit; statutory consultations; enforcement action and any additional activities which may be introduced following the Independent Review.
- 10.4 A detailed resource impact assessment for the fire and rescue service will be needed before services can absorb the additional responsibilities such as the proposed role as part of the JCA, Safety Case Reviews, new competency and accreditation where relevant, the additional focus on the buildings within scope, additional burdens associated with FRS engagement in the regulatory framework stages, and any fire and rescue service contribution to the development of guidance where relevant.
- 10.5 The NFCC look forward to engaging with Government on their response to the review, including a full consideration of funding implications for Fire Safety and Protection activities.