

Agenda – Equality, Local Government and Communities Committee

Meeting Venue:

Committee Room 3 – Senedd

Meeting date: 21 November 2019

Meeting time: 09.30

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The Committee resolved on 13 November 2019 to exclude the public from items 1 and 2 of today's meeting

1 Technical briefing on the Local Government and Elections (Wales) Bill

(09.30 – 11.00)

2 Local Government and Elections (Wales) Bill: consideration of approach to scrutiny (Subject to introduction)

(11.00 – 11.30)

Break

(11.30 – 11.45)

3 Introductions, apologies, substitutions and declarations of interest

(11.45)

4 Fire safety in high-rise buildings follow up – Ministerial scrutiny session

(11.45 – 13.00)

(Pages 1 – 22)

Julie James AM, Minister for Housing and Local Government

Clare Severn, Head of the Building Safety Programme

Francois Samuel, Head of Building Regulations Policy



Steve Bryant, Assistant Fire and Rescue Advisor
Steve Pomeroy, Head of Fire & Rescue Services Branch

5 Papers to note

(13.00 – 13.05) (Page 23)

5.1 Correspondence to the Llywydd regarding the Local Government and Elections (Wales) Bill timetable – 12 November 2019

(Pages 24 – 26)

5.2 Correspondence to the Future Generations Commissioner for Wales regarding the Future Generations report – 14 November 2019

(Pages 27 – 28)

6 Motion under Standing Order 17.42 (vi) to resolve to exclude the public from the remainder of the meeting

(13.05)

7 Fire safety in high-rise buildings follow up – consideration of evidence

(13.05 – 13.20)

Document is Restricted

Fire Safety in High-Rise Buildings
Equality, Local Government and Communities Committee
Thursday 21 November 2019

Fire Statistics in Wales

The number of accidental fires in Welsh homes is at an all-time low and in recent years has been falling faster here than elsewhere in Britain.

The number of fires in Wales has seen a downward trend since 2001-02. Latest figures show that accidental dwelling fires in Wales have fallen by over a fifth in the past 8 years. We therefore have a good record on fire safety and a strong foundation on which to build.

These positive results are largely down to our excellent fire and rescue services who undertake the most home fire safety checks in Britain. We know that poor behaviour rather than poor products are the cause of most fires, and the tireless work of our fire and rescue services to inform the public on fire prevention strategies has had a dramatic impact on our fire statistics.

However, there were 1,429 reported accidental fires in dwellings in 2018-19 in Wales. Fires have a devastating effect on the lives of people. These fires resulted in 14 deaths and 106 hospitalised casualties. It has been estimated by the insurance industry that the average cost of a dwelling fire in terms of damage to property is over £40,000, and the cost to society more generally is immeasurable.

The most common cause of accidental fires in dwellings is the misuse of appliances (typically cookers), representing around a third of cases last year. Over 75% of dwelling fires with a known cause can be attributed to unsafe behaviour rather than unsafe appliances, installations or premises. Accidents involving faulty appliances or fuel supplies accounted for just under a quarter of dwelling fires, followed by placing articles too close to heat sources. There are also people at higher risk of suffering a fire and/or coming to harm if a fire occurs and these include: older people, people who have certain disabilities/mental health problems, smokers, people with alcohol and drug problems, and single parents.

Dwelling fires typically account for under 20% of all fires, but around 80% of casualties. So what these data suggest is that where a fire occurs in a domestic premises there is a greater chance of casualty.

Increasing general fire safety through retro-fitting sprinklers

We know that sprinklers are an effective intervention in reducing the risk to life and injury. They are widely recognised as being a key contributory factor to preserving life and minimising damage in the event of fire. The ability of sprinkler systems to extinguish fires efficiently and quickly has many benefits. Sprinklers have the advantage of targeting fires at source and reducing the risk of fire spread. Welsh

Government brought forward legislation in 2016 requiring the fitting of sprinklers in new builds and conversions.

Whilst statistically a fire is no more likely to occur in a high-rise residential building, a high-rise building offers greater complexity in terms of the potential for a fire to spread and the means of escape for those who might be in the building. However, the vast majority of high-rise residential buildings were built before these requirements were introduced and therefore have not been fitted with sprinklers as a matter of course.

Retro-fitting sprinklers in existing buildings remains a matter for the responsible person to ensure fire safety in the building as part of a programme of routine building improvements. It is for building owners to seek professional advice and decide whether to fit sprinklers, on the basis of their assessment of the particular risk faced in their building(s).

I have asked officials to explore if a low cost loan can be developed to incentivise the fitting of sprinklers, focusing particularly on high-rise residential buildings. Whilst I am anxious to explore what support we might provide to improve building safety, I do not want to absolve building owners of their responsibility in this area.

I will write again to the Committee on this matter once I have agreed the plans my officials are currently developing.

Although sprinklers significantly improve the fire safety of a building, they are not a solution to existing building safety defects such as those found in a number of high-rise properties in Wales. Where breaches in fire safety have been discovered, remediation plans must be put in place to remedy those defects as quickly as possible. I have been consistent in my message that the taxpayer cannot foot the bill for failures in the design or construction of private sector residential buildings. Building owners and developers should face up to their moral responsibility and put right these faults, or else risk their professional reputation.

My officials are engaging with their counterparts in the UK Government on whether we can enact a section on civil liability under the Building Act 1984. This is one potential solution to the problems caused by certain construction companies failing to deliver on their word.

Interim Measures to Improve Building Safety

This Committee, along with my Building Safety Expert Group in their *Road Map*, have made a number of recommendations for action in the longer term and more immediately.

I will be making amendments to the current Building Regulations in order to ban the use of combustible cladding materials, making it clear what cladding is acceptable on high-rise residential buildings. I would expect these amendments to be laid by Christmas following clearance from the European Technical Committee.

We will shortly be consulting on making the Fire and Rescue Service a statutory consultees at the planning stages of new high-rise developments. This will ensure

fire safety expertise is sought at an earlier stage of design and construction, creating better links between the Fire and Rescue Service and local authorities.

My officials continue to work closely with the UK Government over the testing of fire doors and various different types of external wall cladding. This will lead to improved information and understanding for residents, building owners, managing agents and landlords and pave the way for high quality, safe products to reach the market.

I am exploring ways to ensure managing agents are registered to support best practice and stamp out rogue operators. An initial voluntary accreditation scheme for managing agents will generate evidence to inform the creation of a mandatory system. This was recommended as part of the leaseholder reform work and by this Committee. Under the new building safety system, such a scheme will form the basis of registering or licencing duty holders during the occupation phase of a building's life cycle.

Longer Term Measures

Many of the recommendations in this Committee's report and the *Road Map* called for long-term action. The white paper I will publish will focus on the future system and the legislative changes we require to establish the new regime.

In the current system of building control, responsibility for compliance with the requirements of the building regulations rests with the person carrying out the building work. However as Dame Judith Hackitt points out, the current building control system is complicated, lacking in process and clear responsibility for those undertaking building work.

I propose that the additional requirements of a reformed system should focus on high-rise residential buildings over 18 metres in height, but the system must be flexible enough to ensure that the scope can be easily widened to encompass more buildings should the evidence support this. Where it is appropriate to make improvements to the system for all building types I will do so. I intend to make buildings safer for more than just those living in high-rise apartments where I can.

Domestic buildings should be designed and constructed in such a way that the risk of fire is minimised and, if a fire does occur, there are measures in place to restrict the growth of fire and smoke to enable the occupants to escape safely. However, just as importantly, there should be measures in place to allow fire-fighters to deal with fire safely and effectively. This is even more important in a high-rise building where fighting a fire and the means of escape can be more difficult.

I am considering the role of the duty holder across the life-cycle of residential buildings. I believe we can follow the successful implementation of the Construction (Design and Management) Regulations 2007 (CDM regulations) when designing the role of duty holders; the CDM regulations support the mitigation of health and safety risks onsite, and in the design and ongoing maintenance of buildings once completed. CDM regulations apply to every building project, regardless of size. This should be the case for building safety too.

The *Road Map* sets out a skeleton for a reformed building control process, with more checks and balances in place for residential buildings over 18 meters in height. A task and finish group, supported by my officials is looking at how this can be fleshed out into a new building control process for the future.

I also want to go further to address issues during the occupation phase. This means a comprehensive reform of the Regulatory Reform (Fire Safety) Order 2005 ('the Fire Safety Order'). I agree with the Committee that the Fire Safety Order is long overdue a revision, with its original purpose intended for workplaces, not residential buildings.

This will require primary legislation, as the powers to amend the Fire Safety Order by Order have long been repealed and were never devolved to Wales. This will be given a high priority, but delivering such a far-reaching Bill before the next Assembly election may not be achievable.

To reform the Fire Safety Order only for high-rise residential buildings would be a missed opportunity. The issues of defining common areas and tracking down the responsible person apply if the block of flats is for 10 dwellings or 100. That is why I intend to consult on reforms that affect many more than those buildings over 18 meters in height.

The *Road Map* also discussed the need to clarify roles and responsibilities and recommended the Welsh Government introduce new legislation to replace the Fire Safety Order in order to provide clarity and resolve some key issues.

My plans for reforming the Fire Safety Order will place additional expectations with regards to high-rise residential buildings, but will also be clarified and improved to help all those living in homes captured by the Fire Safety Order.

The reforms will focus on clarifying the boundaries of 'common areas' to which the Fire Safety Order applies, and the relationship between the Fire Safety Order and the Housing Health and Safety Rating System under the Housing Act 2004. It will also establish clear and express requirements on responsible persons, residents and others to maintain the compartmentation which is critical to fire safety in a high-rise block. The lack of understanding and coordination between these two legislative systems was one of the Committee's criticisms of the current system, as exemplified by confusion over whether fire doors which act as front doors to flats are considered part of the common area. I will ensure new legislation and its accompanying guidance is clear to those undertaking legal duties, and to those who will be subject to actions, such as landlords, leaseholders and tenants.

The reformed Fire Safety Order will clearly set out the roles and responsibilities for the responsible person during the occupation phase, so that residents can hold them to account, and where necessary enforcement action can be taken forward swiftly. I consider fire risk assessments should be undertaken by a suitably qualified individual and it should be a requirement to take prompt action to mitigate any risks.

I am considering how best to identify responsible persons, for example through registration or licencing, so they can be better held to account. I would like to introduce a mandatory registration system for all responsible persons, possibly similar to how Rent Smart Wales has licenced landlords to encourage best practice.

My intention is to ensure all managing agents are registered for any residential building that falls within the scope of the reformed Fire Safety Order, and licensed for those blocks above 18 metres in height. However, I want to move at pace and will propose an initial voluntary system to allow the time to bed in and to gather evidence before a mandatory system is established in the future.

There are other issues that I will also address. Residents should also be provided with essential fire safety information, with a mechanism of raising concerns about the safety of the building. Community Housing Cymru and Welsh Government have been working to co-create a best practice guide in terms of what information residents should be provided with. This is something that I want to see extended to all sectors. We have some excellent examples in Wales in terms of resident engagement, strong communication and processes for escalating concerns. This should be the norm regardless of tenure of resident.

Grenfell Inquiry

The tragedy at Grenfell tower two years ago shocked the world. The scale of the blaze, the loss of life and the speed in which it occurred is still deeply troubling. If anything positive should come from this terrible event, it must be a real improvement in fire safety and to reform the system that allowed such breaches in building regulations and a disregard for basic fire safety features.

The recently published first report from the inquiry into the events of the night will be examined carefully and any lessons learned will be considered here in Wales, in conjunction with the three Fire and Rescue Services in Wales. For the most part, these are operational lessons which the Fire Service and other responders need to learn and apply, if they have not already done so. We will however work with our partners to ensure they do just that.

These issues and recommendations will feed into the building safety programme and any resulting proposals for legislation will be included in my white paper which I intend to publish next year. It is time to create a new Welsh system, fit for our future.

Additional

In response to the letter sent from Committee (25 October 2019);

During the statement, you said that the Welsh Government were still considering how to increase capacity to undertake such work (level 4 invasive testing), could you provide us with more detail on how long you expect this to take?

I understand the desire to mandate level 4 testing in all high-rise residential buildings, particularly in light of the recently found problems in properties in Cardiff Bay and Swansea.

Level 4 tests, known as destructive tests in the Local Government Association's *Guidance on fire safety in purpose built blocks of flats*, allow independent inspectors to investigate beyond what is easily visible and can therefore identify breaches in compartmentation.

I would like to clarify it is not the Fire and Rescue Service or the Local Authority that carry out such inspections. They are normally undertaken by independent fire risk assessors. Whilst resourcing is one issue to overcome here, there is another more fundamental point to make. Because of the destructive nature of level 4 tests, they are often only carried out in vacant flats. The guidance suggests this level of testing is only appropriate in limited circumstances, such as when there are significant gaps in the building owner's knowledge or that serious risks are suspected.

Level 4 tests also risk disturbing asbestos in buildings, so they must be very carefully planned for and only carried out by experts.

As building owners begin to bring together information to form their 'Golden Thread' to support them in managing their properties, I would expect more buildings to undergo detailed surveys which may include more level 4 tests. This will allow owners and managing agents to better understand their buildings and ensure fire safety plans are appropriate and well known to residents.

Could you provide the Committee with further details of the discussions that you are having with the managing agent and developers in relation to addressing the issues at Celestia?

Officials have been in discussions with the managing agent (Parkmans) and other organisations regarding the Celestia development. This includes South Wales Fire and Rescue Service, Cardiff Council, the residents' management company for the privately owned flats (Celestia Management Company Limited), Cardiff Community Housing Association and the Association of British Ports.

Celestia development at Cardiff Bay consists of 8 residential blocks of flats. 7 are privately owned and 1 block is owned by Cardiff Community Housing Association.

South Wales Fire and Rescue Service issued a number of enforcement notices to rectify internal compartmental deficiencies and access issues in respect of the privately owned properties during August and October 2019. The managing agent and resident management company have advised officials that plans are in place to address these issues.

During discussions with the managing agent and the resident management company, officials have been made aware of the communication they were having with the developer and contractor. Officials were advised of sensitive, complex discussions involving legal advisers between the parties.

Welsh Government's focus has been and will remain on how we can ensure the safety of residents through appropriate policy direction, legislative reforms and facilitation between enforcement bodies.

In line with other similar cases, the powers and duties that relate to the safety of individual buildings rest with local authorities and fire and rescue services, not with Welsh Government.

Cardiff Council is continuing to engage with the managing agent and South Wales Fire and Rescue Service continue to work with the managing agent and the resident management company.

Officials will continue to monitor developments at Celestia through ongoing general discussions with South Wales Fire and Rescue Services and the Local Authority. Officials will also continue to engage with the managing agent.

Agenda Item 5

Equality, Local Government and Communities Committee

21 November 2019 – papers to note cover sheet

Paper no.	Issue	From	Action point
ELGC(5)-32-19 Paper 2	Local Government and Elections (Wales) Bill	John Griffiths AM	To note
ELGC(5)-32-19 Paper 3	Scrutiny of the Future Generations Commissioner for Wales annual report	John Griffiths AM	To note

Agenda Item 5.1

Papur 2 - Llythyr at y Llywydd
Paper 2 - Letter to the Llywydd

Elin Jones AM
Y Llywydd and Chair of the Business Committee

12 November 2019

Local Government and Elections (Wales) Bill

Annwyl Elin

Thank you for your letter seeking the Committee's views on the proposed timetable for the Local Government (Wales) Bill. We discussed this at our meeting on 7 November, and concluded that the proposal of allocating twelve sitting weeks for us to undertake our Stage 1 scrutiny is insufficient. For the reasons I have outlined below, we believe that an additional two sitting weeks will be required to undertake the work warranted by such a substantial Bill, and would be grateful if the Business Committee would consider our request of revising the deadline for completion of Stage 1 to 27 March 2020.

The paper submitted to Business Committee sets out that the Bill consists of 172 sections and 13 schedules, which is the largest Bill introduced during this Assembly. Further, as outlined in the paper this will not be a single-issue Bill, but will contain a broad range of provisions covering various aspects relating to local government. These are significant provisions and require detailed scrutiny by the Committee.

Twelve sitting weeks is already a tight timescale for undertaking this work, however we are further restricted by this coinciding with other factors outside of our control. During this period we will also be undertaking our scrutiny and reporting on the Welsh Government's draft budget, and changes to that timetable will have a particularly significant impact for us. Essentially we will need to rearrange our budget scrutiny to accommodate the revised budget timetable, which will in turn reduce the number of committee sessions available to us to scrutinise the Bill. While we will endeavour to do everything within our own capacity to meet the two timetables, agreeing a 14 week Stage 1 would reduce the significant risk of not meeting one of our reporting deadlines or having to request for additional time towards the end of Stage 1. Additionally,

the confirmation of a general election on 12 December will impact on many stakeholders' ability to engage with us on the Bill during the first weeks of the process, which further compounds the difficulties we face.

In practice, the proposed timescale would only allow for a maximum of 6 committee meetings to be allocated for hearing oral evidence, including two with the Minister at the beginning and end of the process. There will be numerous stakeholders from whom we will want to gather evidence, and who will want to engage with our work – notably the WLGA and local authorities, but also town and community councils, fire authorities, electoral organisations, the Auditor General for Wales, Commissioners, trade unions, equality organisations and the voluntary and business sectors. We would also like to undertake citizen engagement work, to ensure the public's voice on these important issues is heard and reflected in our work.

Four committee meetings to take oral evidence on such a broad range of provisions would constrict our ability to hear from many of the stakeholders we would like to. Consequently, we will only be able to undertake the minimum amount of scrutiny required, with our evidence gathering restricted to essential witnesses only; we do not believe this is sufficient to do justice to this important work. We will also need to factor in sufficient time to formulate and consider our report, which I would expect to be considerable in volume.

The Business Committee paper notes that the Committee is not currently considering any other Assembly Bills, however the Welsh Government has indicated that it will be introducing a Housing Bill relating to no fault evictions early in 2020, which we are expecting to be remitted to us. The expected timetable for that Bill will overlap with this Bill at the time we will be considering our draft report and subsequently during the amending stages.

Whilst we appreciate that a twelve week period has become the standard approach for Stage 1 consideration, we believe that a Bill of this size and disparate nature requires additional time. There are precedents for this, in the Fourth and current Assembly terms. We are also concerned that allocating a twelve week period for this Bill could set a precedent for future Bills of this nature.

We understand that, should the Bill be passed by the Assembly, a programme of secondary legislation will be required to implement provisions in advance of the next local government elections in 2022; however, we do not believe this justifies curtailing the Committee's ability to undertake thorough scrutiny of the Bill. Regardless, we do not believe that allocating an additional two weeks for Stage 1 scrutiny would have a significant impact on that work, as it would not prevent



the Assembly from undertaking the amending stages and passing the Bill ahead of summer recess 2020.

We would be grateful if the Business Committee could consider our request for a deadline of 27 March 2020 for completion of Stage 1 proceedings.

Yours sincerely

A handwritten signature in black ink that reads "John". The letters are cursive and slightly slanted.

John Griffiths

Croesewir gohebiaeth yn Gymraeg neu Saesneg.

We welcome correspondence in Welsh or English.



Agenda Item 5.2

Papur 3 – Llythyr at Gomisiynydd Cenedlaethau'r Dyfodol Cymru
Paper 3 – Letter to the Future Generations Commissioner for Wales

Sophie Howe
Future Generations Commissioner for Wales

14 November 2019

Dear Sophie,

Thank you for inviting the Committee to comment on your forthcoming Future Generations Report. You will be aware that we held a session with stakeholders earlier this month to better understand their role in working with you and your office. As part of the session, we also sought their views on the areas which should be included in your report. Based on this, we offer the following comments.

We believe it will be important to learn from the impact of actions already taken and how these can influence future change. The report should therefore demonstrate the impacts and outcomes of your work over the past three years, setting out the clear evidence base to influence future thinking. It should assess the impact your office has had on supporting public bodies to create good policy and good decision making framed by the Act, but should not merely be a report on public sector progress.

There should be a clear focus on the future, spelling out the trajectory of where we need to be going. This is a real opportunity to share strong analysis about future trends; what that tells us, and some scenarios for some positive action. We believe this approach will be useful for the public sector in terms of planning, changing mindsets etc as well as the broader public.

In the report you should place greater emphasis on public bodies achieving the 'A resilient Wales' goal, notably in relation to the climate and nature emergency. The environment is critical to a healthy future, and therefore there should be a specific focus on this. The report should also set out your own priorities for the future, and be clear about whether the priorities you have currently set will stay in place for the remainder of your time in office, or whether they are likely to change.

Papur 3 – Llythyr at Comisiynydd Cenedlaethau'r Dyfodol, Cymru
Paper 3 – Letter to the Future Generations Commissioner for Wales

You may be aware that the Committee has undertaken inquiries into rough sleeping and empty properties recently, both of which overlap with achieving some of the well-being goals. You may wish to take account of these when considering your work on your priority area of housing.

Finally, the public should be able to relate to the report; it needs to be engaging, and something people can “latch onto” and feel part of. This is important as they will play a key role in driving forward the necessary change.

I hope that this information will be useful to you in preparation of your report.

Yours sincerely



John Griffiths AM

Chair

Croesewir gohebiaeth yn Gymraeg neu Saesneg.

We welcome correspondence in Welsh or English.