



FS WP 1

Ymchwiliad i ddiogelwch tân mewn tyrau o fflatiau yng Nghymru (Papur Gwyn Llywodraeth Cymru - Adeiladau Mwy Diogel yng Nghymru: Ymgynghoriad)

Inquiry into fire safety in high rise blocks in Wales (Welsh Government white paper - Safer Buildings in Wales: A Consultation)

Ymateb gan: Gwasanaeth Tân ac Achub De Cymru

Response from: South Wales Fire and Rescue

A Building Safety White Paper

The White Paper sets out proposals for comprehensive reform of legislation that contributes to building safety. Welsh Government are proposing a new Building Safety Regime for Wales. This will present a significant overhaul to the existing system, it would also result in the most expansive building safety regime in the UK.

Welsh Government acknowledge risks are not limited to high rise buildings alone and so they propose to go further and include other types of residential building where they recognise there is a risk from fire or structural safety that has the potential to impact upon significant numbers of people.

South Wales Fire & Rescue Service welcome the Welsh Government White Paper and the significant step forward in their commitment to improve the Building Safety Regime in Wales. However, there are several key aspects though where Fire and Rescue Services remain concerned.

Welsh Government propose that the scope of the Building Safety Regime covers all multi-occupied residential buildings. This refers to any building where there are two or more dwellings, regardless of whether there is a shared front door to the building. This means that the scope of the regime would capture a house converted into two flats, a licensed HMO through to a high-rise apartment block.

As such they are proposing that there are two new categories of building set out in the Building Safety Regime.

Category 1 – these buildings would be subject to the most onerous requirements of the Building Safety Regime. These buildings **will be 18m or more in height or more than 6 storeys and contain two or more dwellings.**

Category 2 - these buildings would be subject to numerous requirements of the Building Safety Regime. These buildings will be residential properties **with two or more dwellings that are no more than 18m in height.**

It's imperative that the recommendations from the Grenfell Inquiries are properly considered in order to fix the broken system identified by Dame Judith Hackitt and



restores the public confidence in fire safety especially for those who reside in properties that come into scope.

The Building Safety Bill is a huge breakthrough and secondary legislation will follow, this along with the Welsh Government Safer Buildings in Wales Consultation is a step in the right direction.

The new Bill will amend the Fire Safety Order 2005 to clarify the responsibilities of the person nominated as the duty-holder for multi-occupied buildings. This clarification will empower fire and rescue services for the first time to take enforcement action and hold building owners to account if they are not compliant with the structure and external walls of the building, including cladding, balconies, windows and entrance doors to individual flats that open into the common areas.

It is SWFRS experience that when dealing with enforcements on High Rise Residential Buildings how complex some ownership arrangements can be. It causes confusion for the Enforcing Authority and residents when it comes to who's responsible for the safety of their building.

The introduction of duty holder roles during design, construction and occupation phase and identifying accountable persons will go some way to alleviating this, providing the addition of multiple 'Responsible Persons' under the new regime won't add further layers of complexity to what's already a significant challenge.

On behalf of South Wales Fire and Rescue Service Group Manager Owen Jayne Head of Business Fire Safety.

Key Changes

Issue 1

Para 2.3.1 The scope of the BSR to cover all multi occupied buildings that encompass 2 or more dwellings.



The widening of the scope of buildings i.e. 'any building where there are two or more dwellings' will create a vast increase in BFS workload requiring additional resources. Firstly buildings of this type would not normally form part of the Risk Based Inspection Programme (RBIP) in SWFRS. Secondly due to the proposed increase in FRS involvement in the gateways process would have significant increase in workload for SWFRS.

Additionally this will inundate FRS with directing resources to areas we would not normally focus on, smaller dwellings often considered by LA housing and our CS colleagues. We would now have a mandatory duty to respond.

However we feel the scope of the BSR should also encompass **specialised housing** due to the increasing risks associated where vulnerable occupants reside, without the ability to self-evacuate and without staff assistance to evacuate.

The standards of design, construction and maintenance of these buildings is imperative to the safety of older or more vulnerable members of our communities and are increasing in numbers (e.g. sheltered, extra care, supported living, independent living etc.). It is vitally important that the new regime be implemented to cover these types of premises to ensure the evacuation strategy is right for the residents and the design of the premises.

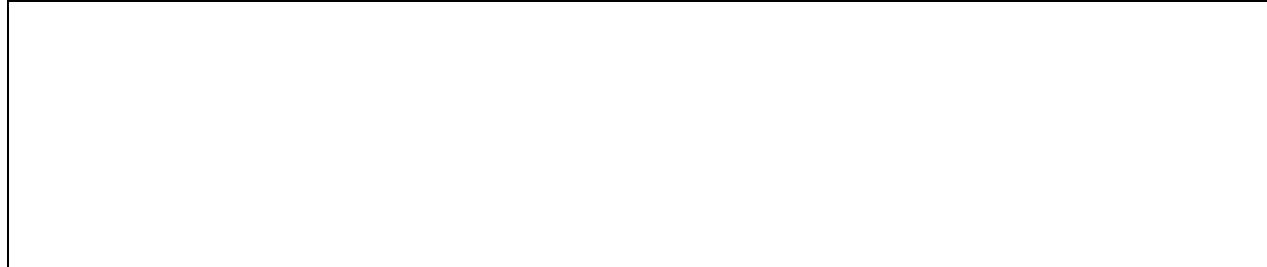
Issue 2

Para 2.3.2 Different requirements depending whether Category 1 or Category 2 (Option A) or (Option B) figure 5 Advanced, Enhanced or Standard buildings.

Regardless of choice of options, FRS will be involved heavily throughout the lifecycle of the building. By increasing the duties of the responsible persons/duty holders, the FRS would have to transform the current audit process for instance to encapsulate the safety case that would become a requirement, the inspection of external cladding and balconies. This is reliant on secondary legislation to allow FRS to go beyond the front door.

Issue 3

Para 3.5.13 The workplace focus of the FSO means we think it is likely that a new Building Safety Regime will need to be designed, separately from the FSO. Meaning the FSO would remain for workplaces, but it would no longer apply to dwellings.



If SWFRS were to become regulators of BSR, there will be an additional set of rules/legislation we would need to become competent in, alongside the FSO? This would increase the training burden and take time to embed.

Issue 4

Para 5.5.1 WG proposals would mean that single flats above commercial premises (like shops or pubs) would not be covered, Mixed residential/commercial

Proposal that this type of premises will not fall within scope of BSR.

We know that the risk to residents of these properties can be very high if the commercial premises themselves are high risk, such as restaurants and takeaways which form large proportion of our enforcement action in SWFRS.

Paragraph 5.5.2 proposes to strengthen the FSO legislation to improve fire safety in such premises which we advocate, however this will take time. Legislative changes will have to be well planned to ensure these high risk premises do not 'fall out' of legal scope.

Issue 5

Para 6.2.1 Golden Thread is a living record of the building, it will support the Gateway process as well as the ongoing management of the building Existing buildings

Collating and accessing relevant information for the golden thread will prove challenging and may impact on how we would regulate against this. This information would need to be accurate, current, and in a consistent format, it would include the Fire Statement, Full Plans, a digital model of the building, a Fire and Emergency File.



This would form the majority of cases for the regulatory authority whilst conducting audits in line with the Risk Based Inspection Programme (RBIP), but the design of such software so it's accessible by all the regulators would need to be considered.

Golden Thread: Up to date information on design, construction and ongoing maintenance of Cat 1 buildings.

- To be kept in digital form – this could create IT software issues as relevant information would need to be available on mobile terminals for our Operational crews attending incidents along with the Fire Safety Department.
- Key data sets would also be collected for Cat 2 registration process for occupation.

A key recommendation of the Grenfell Tower Inquiry Phase 1 that 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;
- 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.

Issue 6

Para 6.3.2 Introduction of duty holder roles during design and construction and occupation phase. Client, Principle Designer, Principle Contractor, Designer and Contractor.

Design and construction

This will potentially create additional authorities/persons to liaise with on the projects. Although Building Control Authorities would still be the main POC for consultations.

Occupation phase



- Accountable Person – identified and registered
- Additional Building Safety Manager for Cat 1 buildings
- Responsible for annual FRA, ensuring compartmentation, safety case and mandatory reporting to regulators. Again the latter would increase workloads and over burden FRS' depending on experience and knowledge of accountable person/building safety manager.
- Additionally reference made to greater FRS involvement in Cat 2 buildings due to expertise with FRA's (page 101). This could inundate us with additional work.
- Reference under 2.10.2 on page 12 made to firefighting due to an outbreak of fire – **we would question who would do this in residential buildings and their training.**

Issue 7
Para 6.4

Fig 7 Gateways:

- 1) Before planning permission is granted,**
- 2) Before construction begins,**
- 3) Before occupation.**

FRS involvement at **all** gateways would need to be suitably resourced. Currently FRS's are predominantly involved at Gateway 2, Building Regulations Consultations, and following occupation of the building.

Gateway 1) only for Cat 1 buildings in addition, those buildings the key dataset's will include and would need to be audited during inspections;

- Façade and structure information
- Dates and outcomes of gateway points and Safety Case reviews
- Current and past duty holders, including accountable persons.

Safety issues are considered as an integral part of the lifecycle process by incorporating periodic reviews at critical stages of any building development. They will also introduce 'hard stops' in the system, where work cannot continue without evidence that building safety is being appropriately managed.

WG also intend to introduce Gateways for Category 1 buildings that are undergoing a significant refurbishment or a change of use.



This would increase the workload for FRS's who could be drawn in to the appeals process should they disagree with the Fire Statements, Planning Applications or Fire Strategies, if it is felt they are not suitable and sufficient and initiate a 'hard stop'. There would need to be very clear on lines of responsibility and expertise, with potential insurance premium implications through increased responsibilities.

Issue 8

Para 6.4.8 Consideration to make FRS 'specific consultation bodies' under the Town and Country Planning Regulations 2005, which would make it law for planning authorities to consult with us.

For Cat 1 buildings, a Fire Statement will be required and the FRS will be responsible for identifying errors when undertaking the statutory consultee role.

Additionally the document mentions the FRS have a role to advise developers on surrounding areas that may constitute a hazard, on 'the type and number of appliances' that might respond (essentially Pre Determined Attendance PDA for that premises type).

Gateway 2 comments on supporting evidence to include full plans, a digital model of the building (could be further IT requirements), fire emergency file and construction control plan. All these sit with the Fire Statement and would have to be assessed during the Building Regulations consultation process.

SWFRS have already responded to Welsh Government consultation on 'Fire and Rescue Authorities becoming statutory consultees in the development management process' (issued: 28 July 2020). We provided a detailed response as to the impact on the Service of the increased workload. On the figures provided by Welsh Government (Major Planning Applications), it has been determined that this additional work would result in excess of 700 hours per annum for SWFRS.

A financial impact assessment is currently being conducted by Welsh Government to determine the impact across all partners of the proposal.

Issue 9

Para 8.2.4 Promoting Building safety, Informing residents:



For the most part this could consist of signposting residents to the general fire safety advice (and more tailored help for high-risk individuals) that Fire and Rescue Authorities provide. This has the potential to increase ad hoc requests for advice to both Business Fire Safety and our Community Safety departments.

SWFRS have prior experience of supporting both social housing and private sector landlords to engage and educate residents in fire safety matters.

Issue 10

Para 8.5.3 Rescue of residents unable to escape by FRS

In the absence of a Personal Emergency Evacuation Plan known as a PEEP as in social care, it will often be necessary for firefighters to rescue individuals who cannot leave the premises unaided. To do so, they need to know their location in the building (e.g. flat and floor number) and the nature of any disability the individual has.

Proposal that residents should have the right to supply these details to the Accountable Person, (although no obligation) who would be under a duty to collate them, and supply them immediately to the FRS.

This would need to be collated/shared and kept up to date as this is a dynamic situation. This would create additional work and constant interaction with accountable persons and a reporting mechanism would need to be established.

Issue 11

Para 10.1.3 Building Safety Regulator

This is still to be determined where it will sit, how it will be structured, funded and the governance of such a Regulator. The sourcing of necessary skills, capacity and expertise could be single or multiple regulators.

The existing regulatory oversight in Wales is split between the three Fire and Rescue Authorities and the twenty two Local Authorities.

Our concern is that multiple regulators in the absence of better collaboration, causes too much confusion and limited opportunity to look holistically at the building, with concerns for regulators acting ultra vires.



Issue 12

Para 10.3 Greater collaboration between regulatory authorities and across the industry

Collaboration between regulatory authorities will need to be formalised and established at three levels – Strategic, Tactical and data exchange. This will require a joint agreement to determine a RBIP specific to premises within scope of the BSR.

Collaboration across the industry:

- Reference made to collaboration with industry and other authorities with knowledge, residents, and other enforcing authorities across the UK.
- Producing, disseminating and sharing best practise.
- Ensuring accountability by developing annual reports for WG (currently only require N^o of audits).
- This would increase the FRS role and require greater engagement across the board.

Improved more formal collaboration under a new regime would assist the Multiple Regulators option as it is at present.

In an effort to raise fire safety standards in buildings that fall under the scope of the Fire Safety Order, we believe that the Fire Authority should manage the fire safety element of a Building Regulations application. This should be carried out independently of the Local Authority Building Control Department or Approved Inspector.

SWFRS envisage this to be similar to an application for Building Regulations in that there would be a separate application for 'Fire Regulations' facilitated by the Fire Authorities. Fire Authorities would not only then have enforcing capability when the building is occupied but also during the planning and build stage.

Fire Authorities would then be responsible to 'sign off' fire safety aspects of the building on completion of the build providing the fire safety standards are met. In this respect, Fire Safety Inspecting Officers would then form a fundamental part of the Gateway process to ensure fire safety standards are at the highest possible level.

Issue 13

Para 10.4.11 Greater governance could be introduced



Regulators will be concerned with ensuring duty holders observe governance requirements in fulfilling their role and responsibilities (e.g. in terms of creation, maintenance and sharing of information and data created as part of the regime).

It also concerns a Regulator's own governance responsibilities in performance of its own functions (e.g. collating building information and working with others).

This comes back to the Hackitt review where penalties against Enforcing Authorities could be equal to those we prosecute, should we get it wrong.

Issue 14

Para 10.5.5 Two potential options for regulation: Single and Multiple

A single Regulator is going to need to draw upon the expertise and technical experience of existing Regulatory Authorities. This means that existing regulators would still retain involvement in the regulatory landscape therefore FRS would still have an involvement here and possibly increased involvement due to the expansion of premises being brought into scope.

Issue 15

Para 10.8.2 Reference to the Joint Inspection Team (JIT)

There is uncertainty over the anticipated dynamics of this team but it does reference the need for representatives from existing Enforcement bodies. The JIT would be comprised of a Multi-disciplinary team representing expertise from the existing Enforcement bodies. This is similar to an existing JIT model that has been established in England and in this case the JIT has no legislative powers and can only act in an advisory capacity on behalf of the Local Authority.

The Welsh FRS's are already working with [REDACTED] of WG to scope this out.

The changes proposed in the Welsh Government White Paper and the associated documents referenced below will require the further development and training of individuals. The delivery of effective Regulation depends on the competency of the professionals who undertake the work.



Dame Judith Hackitt Independent Review of Building Regulations and Fire Safety highlighted that the regulatory system for high-rise and complex buildings was not fit for purpose and made 53 recommendations to drive a cultural change across the built environment and the right behaviours within the construction industry and fire sector.

The Review highlighted the need to ensure that those undertaking work throughout the lifecycle of any building have the necessary levels of skills, knowledge and expertise and that government makes sufficient investment in enabling the attainment and monitoring of competency.

The NFCC Competency Framework has been developed for fire and rescue services in England. It provides a framework for the development, maintenance and demonstration of competence of staff who regulate fire safety standards in all premises to which the Regulatory Reform (Fire Safety) Order 2005 (FSO) applies, including Higher Risk Residential Buildings (HRRBs) Category 1 under the Welsh Government proposals.

The Competency Framework will however, will be equally applicable in the devolved administrations as appropriate. It is anticipated that Enforcing Authorities, Local Authorities, Welsh Government will need to fund professional body registration for Fire Safety Regulators who, by virtue of their role, are required to be registered with a professional body, and undergo third party accreditation. The introduction of the Welsh Government Building Safety Regime and possible new Regulator whether option A or B will require a greater level of investment in maintaining competency and the development of new skills required under the new regime.

The above issues are our considerations following the initial evaluation of the White Paper and they do not reflect the full impact on the Welsh Fire and Rescue Services. There are several factors for this, the White Paper is part of the overarching reforms to the Fire Safety Regime following the Grenfell inquiry.

The Welsh Government White Paper, the Fire Safety Bill, Secondary Legislation, National Fire Chiefs Council 'Competency Framework' and the amendment's to all the Guidance Documents we refer to whilst enforcing the FSO will all impact, they will have intended and unintended consequences on the way we deliver and resource our service to the communities of South Wales.

We will respond to the 104 questions posed by the Welsh Government Safer Buildings in Wales, White Paper Consultation in due course with more detail on our thoughts and proposals.



In summary the Fire Service fully support the White Paper Consultation, however Welsh Government must be careful to ensure the new Regime does not inadvertently create a two tier fire safety system. It is reminded that these measures do not retrospectively address the current situation where insufficient fire safety measures still exist in many buildings across Wales.

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