Dear James

At my appearance at Committee on the 22 January 2020, there were a number of points on which I said I would follow up and report back to Committee. These were:

An ask if the report on the future of construction skills by Professor Sean Smith from Edinburgh Napier University would be made publicly available

I can confirm that the report from Professor Sean Smith as Chair to the Short Life Working Group for New Housing and Future Construction Skills was published in May 2019. This can be downloaded from the following link - https://www.gov.scot/publications/new-housing-future-construction-skills-adapting-modernising-growth/

An update on the performance and appointments of local authorities in regards to ‘Verification’

I attach a separate document at Annex A to provide Committee with a comprehensive update.

Clarification on a couple of points in regards to fire test BS 8414 around the skills of those that use the test and interpret the results, and the accreditation of those carrying out the test

As before, due to the information to be provided I attach a separate document at Annex B providing clarification sought by members.

To share with the committee the communications I have had with the Secretary of State for Housing, Communities and Local Government, The Rt Hon Robert Jenrick
MP in regards to the current issue around mortgage lenders and those trying to buy, sell or remortgage their properties

Following my appearance at Committee, I agreed to provide committee with copies of communications between myself and the Rt Hon Robert Jenrick MP due to the fact I had not received a response on this urgent issue even though I had written on three different occasion. This was in the hope a response may be more forthcoming to committee than to myself.

I can confirm I wrote a fourth letter on the 24 January after my appearance at committee and can confirm a response has now been received on the 6 February. A copy of all these communications are attached at Annex C.

An overview of the work being that has been and is being taken forward by the Scottish Government, through the Ministerial Working Group on Building and Fire Safety

It was agreed that I would send committee details of the work being taken forward to implement the recommendations from the various reports on building and fire safety following the Grenfell Tower fire. A lot has been accomplished and continues to be taken forward, details can be found at Annex D.

Who has the control over stay-put guidance

Attached at annex E I hope provides a clearer position on stay-put for Committee. As I mentioned at my appearance, if a more detailed and technical answer is required, I would recommend Committee contact SFRS directly.

Finally, there was also an additional follow-up request made to my office by the Clerk to the Committee for a timeline of the post-Grenfell policy implementations on building standards and fire safety; what has already been implemented and what is in the pipeline. This is attached at Annex F.

I hope this response answers all outstanding issues following my appearance at Committee but please do let me know if any further information is required.

Kind regards

KEVIN STEWART
ANNEX A

VERIFICATION UPDATE

Background

During the Local Government and Communities Committee session, questions were asked around the appointments and performance of local authorities on verification.

Graham Simpson: LABSS has been before the committee, I think, once before, when we produced our original report on the issue. I will follow up on a couple of questions that have already been asked. Are there any councils that, in your view, are still not performing well enough on verification?

Kevin Stewart: We continue to monitor all such issues. The committee will be aware that, when I was not so happy about what was going on, we reduced the amount of time for which local authorities had verification powers. Beyond that, we had an agreement with the City of Edinburgh Council that we would provide a number of experts to give it a helping hand to ensure that it got back on track. If anybody feels that there are any difficulties, we are more than happy to help them with additional expertise over the piece.

In the main, there have been improvements. I cannot remember all the details off the top of my head, but some of the councils that had the powers for less time have had that time increased. We increased the time for which Stirling Council and Glasgow City Council have the powers to three years, and we increased the time to two years for the City of Edinburgh Council.

Graham Simpson: Those were the three councils that I was thinking about.

Kevin Stewart: Stirling Council and Glasgow City Council have made fairly substantial improvements. We have given the City of Edinburgh Council a helping hand, and it is on the road to improvement. When I am out and about in Edinburgh, I get a lot fewer complaints about the situation than I got previously.

We get regular updates on councils’ performance, which is not based entirely on the time that is taken, because we can get fixated on that. We will continue to monitor performance.

Graham Simpson: Perhaps you could write to us with a bit more detail on that, rather than giving a further answer now.

Kevin Stewart: That is not a bother.

Update

I previously wrote to the Committee in April 2018 to provide an update on the three local authorities, City of Edinburgh Council, Glasgow City Council and Stirling Council, who were only re-appointed as verifiers for one year from 1 May 2017 due to their performance (see Supplementary Information 1).
Since then, my officials in Scottish Government have provided tailored support to each authority. The three local authorities’ building standards services have been re-assessed and Close Off Audit Reports issued. To conclude, there has been substantive improvements in performance including turnaround times for building warrants, customer satisfaction and on-going continuous improvements to all aspects of the service in all three authorities.

In addition to the audits, my officials monitor their performance levels reported in the quarterly data returns, which are submitted to the Scottish Government under the verification Performance Framework 2017.

As a result of these assessments, I decided to re-appoint Glasgow and Stirling for a further three year period from 1 May 2019 to 30 April 2022, and Edinburgh for a further two year period to 30 April 2021 with a review after year one. All three reappointments were made with specific conditions.

The conditions require each local authority to include actions in their continuous improvement plan to address identified aspects of performance (see Supplementary Information 2).

The Committee should note the progress made with the assistance of the Improvement Team appointed by City of Edinburgh Council and the tailored support provided by my officials in Scottish Government. I am pleased with progress made to date by City of Edinburgh Council and their continued focus on building a first class building standards service.

In the cases of Glasgow City Council and Stirling Council they made better progress over the period of re-appointment and therefore were appointed for a longer period of time.

**National picture**

Verifiers are performing well and the trend analysis across all key verification performance outcomes shows continuing improvement. However, as with other local authority services, this is not consistent across all geographical areas. My officials are pursuing an agreed engagement strategy to carry out a targeted approach with all verifiers based on their performance, and continue to offer tailored support where required.

My officials will be reviewing the Operating Framework and Performance Framework with Local Authority Building Standards Scotland (LABSS) this year to ensure these frameworks are still fit for purpose. Further supporting self-assessment tools and guidance are currently being developed by my officials to support verifiers assess themselves and formulate their continuous improvement plans.

I trust this demonstrates to the Local Government and Communities Committee that the Scottish Government takes the performance of verifiers seriously and is working closely with local authorities to provide support as required.
Local Authority Verifier Appointment Periods

In March 2017, the then Minister for Local Government and Housing appointed all 32 local authorities as building standards verifiers for their own geographical areas. The appointment periods differed depending on their performance under the performance framework.

- Strong performance – six years (17 verifiers)
- Good performance – three years (12 verifiers)
- Poor performance – one year (3 verifiers) – Edinburgh; Glasgow; and Stirling
- In May 2019, following the successful delivery of remedial measures and development of significant ongoing service improvement plans, Edinburgh was appointed for a further two year period (with a review after year one), Glasgow and Stirling for a further three year period.

The 12 verifiers on three year appointments have been reviewed and based on their performance have been appointed for a further three years from 1 May 2020 to 30 April 2023. One verifier from the original 12, Moray Council, has shown an exceptional improvement and has an extended period of appointment of six years from 1 May 2020.

All re-appointments were dependent on the verifier meeting the Verification Operating Framework 2017 and the Verification Performance Framework 2017. This included satisfying Scottish Ministers that the verifier is meeting, and continues to meet, performance measures.

The Operating Framework 2017 sets out the key functions of the verifier and requires that “Verifiers must adhere to legislative procedures and deadlines, appeals processes and complaints processes.” This includes having:

- processes and controls in place to meet legislative procedures and deadlines;
- measures in place for managing decisions and non-compliance; and
- pro-active communication with applicants regarding key decisions.

The framework sets out the key legislative procedures. Scottish Government officials proactively monitor and engage with all local authorities over the term of the appointments.
Verifier appointment conditions

City of Edinburgh Council shall include actions in their continuous improvement plan to address the following aspects of performance –
- Performance targets
- Continuing to improve customer engagement
- Continued level of investment of building warrant fee income into the verification service.

Glasgow City Council shall include actions in their continuous improvement plan to address the following aspects of performance –
- Continuing to improve customer engagement
- Continued level of investment of building warrant fee income into the verification service.

Stirling Council shall include actions in their continuous improvement plan to address the following aspects of performance –
- Performance targets
- Continuing to improve customer engagement
Continued level of investment of building warrant fee income into the verification service
SKILLS IN RELATION TO BS 8414 FIRE TESTS

Background

During the Local Government and Communities Committee session, questions were asked around skills in relation to BS 8414 tests.

Graham Simpson: *I have one further quick question, which flows from what Professor Torero told us in relation to that test. His concern was not necessarily about the test itself, but about the people who use the test and whether they sometimes lack skill. How do we ensure that the people who use the test have the right skills to carry it out and to interpret the results?*

Convener: *We want an assurance that only people who have such accreditation carry out those tests. I think that having that assurance would answer our questions.*

Kevin Stewart: *We will send you those details, convener.*

Questions from the Committee can therefore be split into two parts:
- The skills of people who use the test and interpret the results; and
- Accreditation of those carrying out the test.

Before I answer those questions, I think it would be helpful if I explain how the building standards system works and how compliance with mandatory building standards can be achieved.

The building standards system

The building regulations are enforced through the building standards system that is established by the Building (Scotland) Act 2003. The Act sets out the enabling powers that allow Scottish Ministers to make, not only the building regulations, but also procedural regulations, fees regulations and the other supporting legislation needed to operate the system. The system is designed to ensure that new buildings and works achieve the objectives of the Act in terms of health, safety, welfare, convenience, conservation of fuel and power, and sustainable development.

The roles of those operating the building standards system are explained in detail in the guidance on the procedural regulations. Briefly, the duty to comply with the building regulations lies with the owner, or in some cases the client, for the work. Before work begins a building warrant must be obtained.

The building standards system is pre-emptive, ensuring so far as possible that the proposed works will comply with the regulations. It recognises that proposals can change during construction, so there are requirements for amendments to the proposals to be agreed and recorded. On completion, the owner or client must certify that the works have been constructed in accordance with the building warrant and the building regulations. The verifier will make reasonable inquiry to ensure the completion certificate is accurate before accepting the certificate. Usually an
inspection of the works will be made, and on most projects some inspection of work in progress will also have been carried out. However verifiers cannot inspect all materials and work on every building site. It is the client that should put in place the contractual and practical arrangements needed to assure themselves that the desired quality of work has been achieved.

Compliance with Building Regulations

The Technical Handbooks gives practical guidance on achieving the standards set in the Building (Scotland) Regulations 2004, as amended. The standards themselves can be found in schedule 5 to regulation 9, and are in the form of ‘expanded functional standards’. That is, the standards describe the functions a building should perform, such as ‘providing resistance to the spread of fire on the external walls’.

Mandatory Building Standard 2.7 Spread on external walls states:

“Every building must be designed and constructed in such a way that in the event of an outbreak of fire within the building, or from an external source, the spread of fire on the external walls of the building is inhibited.”

The regulations are mandatory, but the choice of how to comply lies with the building owner. If the guidance is followed in full then this should be accepted by the local authority verifier as indicating that the building regulations have been complied with. However it is quite acceptable to use alternative methods of compliance provided they fully satisfy the regulations. Failure to comply with the Technical Handbook does not render a person liable to civil or criminal procedures, but proof of compliance with the guidance may be relied on in any proceedings as tending to negative liability for an alleged contravention of the building regulations. Following the advice in the Technical Handbooks is therefore likely to be the normal way of complying with the building regulations. However, a designer may put forward other ways of meeting the regulations, in the form of alternative solutions, for example, fire engineering from first principles.

The requirement for cladding in high-rise buildings in Scotland is that it meets European classification A1 or A2 (effectively non-combustible or does not contribute to fire growth) or that it is tested in accordance with the large scale fire test known as BS 8414 and has passed the performance criteria in BR 135 ‘Fire performance of external thermal insulation for walls of multi-storey buildings. This was one of the recommendations of the Scottish Government’s review panel of fire experts. The BS 8414 test is one of the most robust fire tests in the world and the type of combustible cladding material used on the Grenfell Tower failed this British Standard test.

In Summary, whether individual components of the cladding system meet the European Classification A1 or A2, or the client/designer chooses to have the complete cladding system assembly tested to BS 8414 (and BR135), it is the view of the Scottish Government and that of their expert panel advisors, that compliance with the mandatory standards will be met. Designers should ensure that the materials tested whether individual components or complete assemblies have been installed correctly and relates to the actual component or assembly tested and in
accordance with the manufacturer’s instructions and are suitable for their intended end use application. Local authority verifiers should satisfy themselves that BS8414 test results and certification of products has been carried out correctly prior to granting a building warrant.
SKILLS OF PEOPLE WHO USE THE TEST AND INTERPRET THE RESULTS OF BS 8414 TESTS

Introduction

The skills of people who use the fire test results will vary depending on their role and where applicable, the rules of their associated professional institutions. Many professional institutions involved in the design, verification and construction process have codes of conduct and ethics to which all members are required to comply with.

It is important to note at the outset that the client should put in place the contractual and practical arrangements needed to assure themselves that the desired quality of work has been achieved. The purpose of the building standards system is to protect the public interest. It is not intended to provide protection to a client in a contract with a builder.

The Building standards Procedural Handbook (third edition, version 1.6) was published on 1 October 2019 which included additional information on roles and responsibilities of the relevant person and the verifier from pre-application stage.

Like all aspects of construction designers and installers need to be competent prior to carrying out work. Failure to do so may compromise their ability to obtain affordable professional indemnity insurance. The use of tests results from BS 8414 is no different from other tests in that competence is required in order to ensure that the system is suitable for the type of building and the nature of the risk.

The BS 8414 test is designed to replicate a fire starting inside a room, breaking out through a window and exposing the external façade to fire. The complete façade system is erected on a minimum 8-metre test wall and exposed to flames from a combustion chamber at its base for 30 minutes. This is not a test of individual products. Only the complete external façade system that was tested can be deemed compliant via this test.

The issue with desktop studies was that there were no common rules on how they should be conducted. Therefore, a new British Standard – BS 9414 – was developed that set out the parameters that would be considered acceptable in carrying out an extended application (EXAP) of a BS 8414 tested system.

People undoubtedly exist with the skills to design and install cladding correctly, but it is essential that clients and main contractors put in place measures to ensure that only suitably qualified people are allowed to carry out work on site.

Façade Engineers

Façade engineers come from a range of backgrounds but most usually architectural, structural or building physics. In order then to become a facade engineer, they have then developed a wider breadth of cladding skills and a deeper knowledge than they would encounter within their original discipline. Many façade engineers will be generalist façade engineers. These are able to advise across the full range of materials, systems and performance types.
Specialist façade engineers will typically first have attained a level of knowledge across all façade types and then have chosen to specialise in one particular aspect of façade engineering. Examples are façade engineers whose emphasis is in building envelope physics, using analytical modelling skills; or façade engineers that specialise in a particular cladding material such as stone or glass.

The Society of Facade Engineering (SFE) has a role in setting standards and was established in order to:

- Act as a qualifying body for competency in the façade engineering profession. This involves assessment of candidates' experience and knowledge in facades and their skills to handle client's façade requirements professionally and competently.
- Protect clients' interests by allowing them to identify competent façade engineers through the membership grading system.
- Act as a learned body maintaining and raising the technical and professional standards of the façade engineer.

The SFE is not a Trade Body and membership is not achieved simply by subscription. The categories of membership are as follows:

- Affiliate - an entry level grade and as such, the bearer of this grade of membership will not yet have demonstrated the level of skill and professionalism in facades to be entrusted with a project without supervision.
- Associate - an intermediate grade. Bearers of this grade of membership might be expected to deliver certain aspects of a project, whilst working under the supervision of a Member or Fellow.
- Member and Fellow - considered capable of having the skills and experience and being competent to undertake delivery of a client's façade needs without supervision.

Product and system suppliers often offer design services to assist the professional designers. This detailed knowledge of a product and its uses will be essential when undertaking a more complex or higher risk project.

The following key professions involved in the design, verification and construction process is only intended to give the Committee an overview of the people who are most likely to use and interpret the results of BS 8414 test results when read in conjunction with BR 135 and BS 9414 as appropriate.

**Local Authority Building Standards Verifiers**

The Scottish Government monitors the performance of Local Authority Building Standards Verifiers who are responsible for administering the building standards system to:

- implement the regulations set out by the Building (Scotland) Act 2003 when building work or a conversion takes place;
- grant building warrants when they are satisfied the work meets requirements and;
• accept or reject completion certificates for a completed building prior to occupation.

Verifiers are appointed by Scottish Ministers under section 7(1)(a) of the Act. Regulation 30 of the Building ( Procedures) (Scotland) Regulations 2004 requires that, before making an appointment of a verifier, the considerations to which Scottish Ministers shall have regard to shall include Qualifications; Competence; Accountability to the public; and Impartiality.

Scottish Ministers have reappointed all 32 local authorities as building standards verifiers from May 2017 and monitor their activities regularly using the verification performance framework. The framework is based around three topics:

- professional expertise and technical processes
- quality customer experience
- operational and financial efficiency

**Professional Expertise and Technical Processes**

Verifiers should have the necessary professional expertise to efficiently and effectively undertake all technical aspects of building standards verification, and have contingencies for when they are not available in-house. Verifiers should understand customer needs, be compliant at all times with relevant legislation and be underpinned by risk-based protocols and quality assurance procedures.

**Qualifications**

Verifiers shall have suitably qualified and experienced staff to undertake their verification work. Verifiers shall have procedures in place for resourcing technical specialists when they are not available in-house.

Building standards service staff range from trainees and building standards officers, through to senior officers, team leaders and managers. Professional roles include (but are not necessarily limited to) surveyors, engineers and architects.

New recruits should typically possess at least a degree level qualification in a relevant discipline, such as building surveying, building engineering or architecture. Chartered professional status (e.g. RICS, CABE or CIOB) should be considered at least ‘desirable’, supported by experience in the field where possible. Attainment of chartered professional status should be encouraged as part of Continuous Professional Development in the role (see ‘Competence’).

There may be instances where long-standing staff members with extensive proven and relevant experience do not already possess chartered professional status and local authorities may use their discretion in determining whether this route would be appropriate.

There may be instances where the verifier does not have the appropriate technical specialists in-house and will need to resource them externally.
**Competence**

Verifiers shall undertake regular performance and development reviews with verification staff and support their training and professional development. Chartered professional staff should also undertake a programme of Continuous Professional Development (CPD) to ensure they maintain up-to-date knowledge and competence relevant to their role.

Competence is shaped by the nature of working activities and based around having a safe, efficient and skilled workforce. Competence therefore designates the ability to independently perform a role or task to the required standards. Individual competence is required to ensure efficiency, effectiveness and safety but must be enabled and supported by effective managerial and organisation capability.

It is important that verifiers allocate work using a risk-based approach. This should ensure that assessment and inspection activities are allocated to the most appropriately qualified, skilled and experienced staff depending on the nature, complexity and risks involved in each case. A risk-based approach should allow more junior verification staff to become involved in certain verification activities where this would support their professional development, however, these staff must be subject to appropriate levels of supervision.

During the period of appointment, we expect all local council verifiers to meet the local authority verifiers’ operating framework and use the performance framework to continually improve their services.

Revised guidance has been published to highlight the importance to inspect safety critical elements. Construction Compliance Notification Plans should focus on undertaking inspections for safety critical elements at key stages in construction, for example wall ties, lateral restraints, compartmentation and fire stopping.

**The Royal Institute of Chartered Surveyors (RICS)**

The RICS Rules of Conduct set out the standards of professional conduct and practice expected of all RICS members, students, trainees, and regulated firms. Any failure to follow any guidance associated with the Rules is a factor that will be considered should it be necessary to examine the behaviour of a Member or firm. In such circumstances a Member or firm may be asked to justify the steps they took and this may be taken into account before deciding if disciplinary action is required.

Members or firms shall carry out their professional work with due skill, care and diligence and with proper regard for the technical standards expected of them. Members shall comply with RICS’ requirements in respect of continuing professional development.

Many RICS members will be competent to use and interpret the results of BS 8414 test results when read in conjunction with BR 135 and BS 9414 as appropriate.
The Chartered Association of Building Engineers (CABE)

CABE sets a [Code of Professional Conduct](#) to be followed by its members. Failure to comply with the provisions of the Code may result in disciplinary proceedings, or be taken into account in any disciplinary proceedings, before CABE’s Disciplinary Panel.

The Code provides the basis for CABE’s expectation of members’ professional behaviour and conduct as well as forming the foundation for considerations by the Disciplinary Panel when conducting enquiry hearings dealing with complaints against members’ professional competence, conduct or compliance with mandatory requirements. The Code should be read in conjunction with the CABE Guide to Ethical Professionalism.

CABE members must:
- act professionally at all times with due skill, care and diligence and with proper regard for professional standards;
- accept appropriate responsibility for work they undertake or which is carried out under their supervision;
- assess relevant liability and hold adequate professional indemnity and other insurances;
- maintain and enhance their competency including undertaking and recording CPD and encourage others to advance their learning and competence;
- undertake only professional tasks for which they are competent and use reasonable endeavours to ensure that others over whom they may have influence do not undertake professional tasks for which they lack the necessary competence; and
- be entirely candid about and disclose relevant limitations of competence to those it may affect.

Many CABE members will be competent to use and interpret the results of BS 8414 test results when read in conjunction with BR 135 and BS 9414 as appropriate.

Other Institutions

There are many other professional institutions that follow the same example as RICS and CABE that will be competent to use and interpret the results of BS 8414 test results when read in conjunction with BR 135 and BS 9414 as appropriate. The challenge is to understand the depth of knowledge of each individual member with regard the test results and performance standards. Reliance is therefore placed on the each institutions code of conduct and policies around ethics.

Other examples of professions that may have expertise and experience in fire safety including the interpretation of BS 8414 fire test results include (but not limited to the following), the:
- Institution of Fire Engineers;
- Chartered Institute of Building;
- Royal Incorporation of Architects in Scotland;
- Chartered Incorporation of Architectural Technologists;
The National Fire Chiefs Council (NFCC) have updated their Competency Framework for Fire Safety Regulators. The revised Competency Framework will assist Enforcing Authorities in demonstrating how they ensure competency of their fire safety staff and their commitment to invest in their people, thereby creating a more competent and professional service, increased consistency of regulation and greater reassurance of the professionalism of Fire Safety Regulators to business and members of the public alike.

The Competency Framework for Fire Safety Regulators (Competency Framework) was first published in 2013. It was produced to provide a common approach to achieving and maintaining the competency of Fire Safety Regulators.

Following the Grenfell Tower tragedy on 14th June 2017, Dame Judith Hackitt carried out an Independent Review of Building Regulations and Fire Safety. The independent review highlighted that the regulatory system for high-rise and complex buildings in England was not fit for purpose and made 53 recommendations to drive culture change and the right behaviours within the construction and fire sector. Dame Judith highlighted competency as a cornerstone to this change. In December 2018 the Government published its plan for implementing Dame Judith’s recommendations. All 53 recommendations including those on competency were adopted by the UK Government.

It is against this backdrop, the framework has been revised and takes into consideration Dame Judith’s comments on competency and includes benchmark standards for Fire Safety Regulators regulating High Risk Residential Buildings under the proposed new legislative framework.

Key changes to the framework include:

- All Fire Safety Regulators who are responsible for the regulation of higher risk residential buildings (HRRBs) to be independently assessed by and registered with a professional body.
- Competency of Fire Safety Engineers and Fire Engineering Design Technicians is addressed.
- Enforcing Authorities should ensure that there are sufficient competent Fire Safety Regulators available outside of core hours to undertake enforcement activities.
- All Fire Safety Regulators to have access to the services of a competent Fire Safety Engineer where necessary.
- All Fire Safety Regulators who undertook training prior to the original Competency Framework being published in 2013 to undergo recognised prior learning assessment to ensure equivalence with current competency standards.
- All Fire Safety Regulators to adhere to a specified code of ethics which are encapsulated in the behaviours required to demonstrate competency.

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1 Building a Safer Future - Independent Review of Building Regulations and Fire Safety, May 2018
• All Enforcing Authority managers responsible for the development of Fire Safety Regulators should provide quality assurance and oversight of technical fire safety work to ensure regulators are competent.

Therefore, many employees of the Scottish Fire and Rescue Service will be competent to use and interpret the results of BS 8414 test results when read in conjunction with BR 135 and BS 9414 as appropriate.
ACCREDITATION OF THOSE CARRYING OUT THE BS 8414 TEST

Introduction

The United Kingdom Accreditation Service (UKAS) is the national accreditation body for the United Kingdom, appointed by government, to assess organisations that provide certification, testing, inspection and calibration services.

UKAS is appointed as the national accreditation body by Accreditation Regulations 2009 (SI No 3155/2009) and the EU Regulation (EC) 765/2008. UKAS operates under a Memorandum of Understanding with the Government, through the Secretary of State for Department for Business, Energy & Industrial Strategy.

Accreditation determines the technical competence and integrity of organisations offering testing, inspection, calibration, verification and certification services (collectively known as conformity assessment). In short, UKAS 'checks the checkers'.

It is BEIS policy to recommend the use of UKAS accredited conformity assessment services whenever this is an option. UKAS is a signatory to international accreditation agreements which provide for mutual recognition. This reduces the need for multiple assessments of suppliers, and as a consequence helps to reduce barriers to trade for organisations who have UKAS accreditation.

3.2 Accreditation of Bodies carrying out BS 8414 fire tests.

If materials are not classified as either A1 or A2 as outlined within Technical Handbooks Section 2: Fire, guidance requires that the complete façade build–up meets the acceptance criteria set out in BR 135 (Fire performance of external thermal insulation for walls of multi-storey buildings), using large scale test data from:

- BS 8414-1: 2015+A1: 2017 (Fire performance of external cladding systems. Test method for non–loadbearing external cladding systems applied to the masonry face of a building); or


The method of demonstrating compliance is to submit evidence showing that the complete proposed façade system has been assessed in accordance with the acceptance criteria (i.e. external fire spread, internal fire spread and mechanical performance), set out in BR 135, using data from large scale tests carried out by an independent United Kingdom Accreditation Service (UKAS) accredited testing body, to carry out fire tests to BS 8414-1: 2015+A1: 2017 and BS 8414-2: 2015+A1: 2017.

Currently UKAS accredited testing bodies for these large scale fire tests are:

- The Fire Protection Association Ltd
  London Road Moreton-in-Marsh GL56 0RH United Kingdom
The fire performance of the complete external cladding system, including any fire barriers, is critically important. BR 135 (Fire performance of external thermal insulation for walls of multi-storey buildings) provides a basis for evaluating the fire performance of external cladding systems and states that:

External cladding systems will generally need to address requirements that include:

- resistance to moisture/condensation
- wind loading
- ventilation
- thermal performance – conservation of fuel and power
- sustainability and durability
- fire performance

In summary, UKAS accredited fire test houses carry out fire performance conformity assessments in accordance with the acceptance criteria (i.e. external fire spread, internal fire spread and mechanical performance), set out in BR 135, using data from large scale tests carried out in accordance with BS 8414-1: 2015+A1: 2017 and BS 8414-2: 2015+A1: 2017.
18 October 2019

Dear Robert

MORTGAGE LENDING ON HIGH-RISE DOMESTIC BUILDINGS

Building and fire safety continues to be an area of significant concern across the country. At our recent Ministerial Working Group we heard about new fire safety standards that have now been implemented through our building standards. We are also making progress in developing fire safety guidance for owner and managers of high rise domestic buildings.

The purpose of this letter is highlight an area of concern, although one that I am sure you will already be aware. Recently a number of mortgage lenders have been requesting reports from homeowners to provide detailed information on the type of cladding on their buildings. These requests appear to have been introduced unannounced and without due consideration to the impact on those trying to sell property.

The requirements that homeowners are being asked to meet appear to be near impossible, leaving them unable to sell or re-mortgage their homes until this matter has been satisfactorily resolved. This situation is clearly causing significant stress and anxiety for people across Scotland as well as the rest of the UK.

Responsibility for mortgage lending, and finance more generally, is a matter reserved to the UK Government. I appreciate the engagement that there has been to date between our respective officials on this matter, and I am keen for this to continue. I would also offer that my officials be involved in helping to ensure that any proposed resolution will also be workable within the Scottish legal and building standards systems.

Scottish Ministers, special advisers and the Permanent Secretary are covered by the terms of the Lobbying (Scotland) Act 2016. See www.lobbying.scot

St Andrew’s House, Regent Road, Edinburgh EH1 3DG
www.gov.scot
I understand that you believe that the solution for this must come from industry. However, this appears to be a slow process and I would urge you to push for a swift response and resolution from the mortgage industry.

Yours sincerely

KEVIN STEWART
Dear Mr Jenrick

MORTGAGE LENDING ON HIGH-RISE DOMESTIC BUILDINGS

I wrote to you on 16 October regarding ongoing concerns about mortgage industry changes in treatment of applications from prospective buyers of properties with cladding, resulting in people being unable to buy or sell homes. I am requesting a response as there is a clear and urgent need for this matter to be resolved as soon as possible for the many households affected.

The numbers of people affected - through no fault of their own - continues to grow. The pressures this places on them as individuals and on the housing market will continue to grow until a solution is found and implemented. I would like to respond to those who have been in touch with me about the actions the UK Government has taken to settle the issue.

For my part, I have followed up a discussion I had with UK Finance at their Annual Scotland Mortgage Dinner on 4 October in writing seeking urgent action and offering Scottish Government cooperation to ensure their solution meets the needs of our legal system and will assure people across both Scotland and the UK.
I would be grateful if your officials could continue to work with my own to press for an urgent solution to be put in place, and if you could add your voice to those seeking rapid action from UK Finance and others in industry to resolve this as soon as possible.

Kind regards

[Signature]

KEVIN STEWART
Dear Robert,

I wanted to write to offer my congratulations on your re-appointment as Secretary of State and to follow up on my previous correspondence on the issue of mortgages and cladding.

I appreciate that the last few months have seen significant issues arising, not least the General Election. In the meantime, however, people in Scotland and across the United Kingdom have continued to face difficulties in selling their homes due to lenders changing their approach to lending on properties with cladding.

I wrote to you on 18 October and on 8 November to inform you of the growing concerns in Scotland, including the issue being raised in the Scottish Parliament by Members, and to seek your assistance and views on dealing with this matter quickly. I hope very much to receive a response on this as soon as possible now that you are returned to post.

People across the nations are anxious that this is resolved as soon as possible; I would like to be able to reply comprehensively to both MSPs and members of the public who have corresponded with us on this matter. While I have of course provided responses in the intervening period, I would like to do so in full. I have also committed to passing on your replies and the position of the UK Government.

In the meantime, and with engagement from officials, UK Finance and RICS have introduced a new form and process to help resolve this matter. While I understand this proposed solution is intended be all-UK and all-industry, we will maintain a watching brief to ensure this performs as intended; not least as Scotland’s system of tenure is different to that in England. I would be grateful to be kept informed of how your experience of the solution develops and whether it performs as required for all owners.
Even once fully implemented, it is inevitable that some people will find themselves with properties that do not meet the requirements of this process. This will require ongoing work and cooperation from both our Governments and I hope I can rely on continued joint working and discussion as we seek to resolve the issues arising.

Your Ayer

KEVIN STEWART
Rt Hon Robert Jenrick MP  
Secretary of State for Housing, Communities and Local Government  
Ministry for Housing, Communities and Local Government  
2 Marsham Street  
London  
SW1P 4DF  

Dear Robert  

I am writing to you for a fourth time since 18 October 2019 on the issue of mortgage lending and cladding. I am also copying this letter to the Secretary of State for Scotland for his interests. This is a serious issue for home owners and prospective buyers, all of whom have been affected by policy changes made by others and who are suffering through no fault of their own.  

Some are unable to sell or re-mortgage their homes due to changes made by lenders following the publication of MHCLG’s Advice Note 14. Others will have seen purchases fall through as lenders have been unwilling to sanction mortgages on these properties until further clarity is obtained. People across Scotland, Members and Committees of the Scottish Parliament, Scottish Ministers and others have been seeking support to resolve this matter for some time.  

Having written to you on 18 October, 8 November and on 19 December last year, I would have expected the courtesy of a reply to any or all of those letters indicating your views, setting out what actions you are taking and what further actions we might all consider to resolve this impasse as soon as possible.  

In my letter of 18 October I offered my officials’ involvement to ensure any proposed resolution be workable for Scotland. That offer remains, not least as the pressure on the people through no fault of their own, and on the market as a whole, continues to grow and will do so until the matter is fully resolved.  

I appreciate that first and foremost this is an issue for the industry to resolve, and I am aware that the industry introduced the EWS1 Form and process at the end of the last year. However, as I noted in my letter of 19 December this relies in some respects on a tenure system that does not exist in Scotland. There are still questions being raised by members of the public, press and Parliament and whether this will fully resolve the matter across the UK is still to become clear.  

Scottish Ministers, special advisers and the Permanent Secretary are covered by the terms of the Lobbying (Scotland) Act 2016. See www.lobbying.scot  

St Andrew’s House, Regent Road, Edinburgh EH1 3DG  
www.gov.scot
I would ask now for an urgent reply, an indication of what action you propose to resolve the matter and any suggestions you may have on joint working to resolve a matter of real importance to people both in Scotland and across the UK.

Kind regards

[Signature]

KEVIN STEWART

Cc:  The Rt Hon Alister Jack MP, Secretary of State for Scotland
MORTGAGE LENDING ON HIGH-RISE DOMESTIC BUILDINGS

Thank you for your letters of 18 October, 8 November, 19 December and 24 January regarding access to mortgage finance for homeowners or potential homeowners of properties in high rise residential buildings. I apologise for the delay in responding and want to thank you for writing in on this important matter.

I am aware that concerns about cladding systems have had an effect on the mortgage market. While the Government is working with industry to understand the scale of the problem, it does not appear to be universal. Lenders are lending on flats in high rise buildings but obtaining the necessary paperwork to support a decision can take time.

In order to provide mortgage finance, lenders must have a good idea of the value of a property and any whether any major works are due to take place. Without enough information, the valuation process is paused or defaults to zero until an assessment can be made.

Where building owners - whether freeholders or common-holders - are uncertain of the safety of their property, they should seek professional advice from an appropriately qualified chartered construction professional. They should share any relevant information and reports from professional advice with lenders and valuers.

As you are aware, in December last year the Royal Institution of Chartered Surveyors (RICS) published a form for industry to manage valuations and lending on high-rise residential buildings of 18m and over. The department will continue to engage with industry as this form is used. In your recent letters, you raise concerns on its potential applicability for buildings in Scotland. I understand that RICS have been engaging with Scottish surveyors on its applicability within the different Scottish system.

I am pleased that you have had the chance to talk to UK Finance. Officials in this department are aware of the challenges faced in Scotland and are keen to continue to support Scottish colleagues’ engagement with industry.

Since the date of your letter, Government has published a revised and clarified Advice Note which replaces the previous 22 Advice Notes, including the advice that some lenders were referring to before the introduction of the RICS form. You can find Building Safety Advice for Building Owners online at: www.gov.uk/government/publications/building-safety-advice-for-building-owners-including-fire-doors.
The new advice simplifies the language and consolidates previous Independent Expert Advisory Panel (Expert Panel) advice into one place. It places more emphasis on the need for building owners to address safety issues on buildings, regardless of height. It also highlights the Expert Panel's view that ACM and other metal composites with a polyethylene core should not be used in the external wall system of any residential building – at any height. However, it is advice for building owners and is not a statutory or compliance document and should not be used by lenders as such.

I know that our respective officials continue to work closely on this issue.

This letter has also been copied to The Rt Hon Alister Jack MP, Secretary of State for Scotland.

[Signature]

RT HON ROBERT JENRICK MP
Annex D

SCOTTISH GOVERNMENT ACTIONS FOLLOWING GRENFELL TOWER FIRE

Background

During the Local Government and Communities Committee session, questions were asked around what the Scottish Government was doing to implement the recommendations from the various reports to be published on building and fire safety.

The Convener: Will you provide an update on the action that has been taken to implement the recommendations of the Hackitt, Cole and Stollard reports?

The Convener: Perhaps you could just send us your response on the recommendations.

Kevin Stewart: It would much better if we outlined exactly how we have moved forward in all this work.

We have obviously paid due attention to Dame Judith Hackitt’s report, as well as to our independent reviews. Officials here continue to talk to Dame Judith, because we want to ensure that we do everything we possibly can, which might ensure that her “golden thread” the phrase that she used quite a lot is the way we go forward.

We will send you details of every element, rather than going through what might be 20 pages.

The Convener: Yes - please send us those details.

It was agreed that we would send a thorough detailed report to ensure all actions have been captured.

MINISTERIAL WORKING GROUP ON BUILDING AND FIRE SAFETY

The Ministerial Working Group (MWG) was established in the days immediately following the Grenfell Tower fire in London, on 14 June 2017. Its remit is overseeing a review of building and fire safety regulatory frameworks, and any other relevant matters, in order to help ensure that people are safe in Scotland's buildings, making any recommendations for improvement as required.

The initial focus of the MWG was on gathering information on the use of Aluminium Composite Material (ACM) type cladding on high rise domestic buildings in Scotland. The MWG also sought information on ACM on other buildings including the NHS estate and schools.

Immediate actions were identified to provide appropriate reassurance to residents and communities about their safety. Medium to long-term actions were identified that included fire and safety advice as well as the adequacy of current fire and building regulatory frameworks.
The work set out in the initial work programme (see below) has largely been completed. However, the Ministerial Working Group continues to take forward action in response to:

1. Other cladding types (notably high-pressure laminate cladding). Tests undertaken by the UK Government’s Expert Panel has raised concerns about this.
2. The recommendations of phase 1 of the Grenfell Inquiry.
3. Progress of the Futures Board, which is taking forward the actions from the building standards reviews.

Although the current issue of the availability of mortgage lending for flats with cladding is not within the remit of the Ministerial Working Group, it links very strongly to it and the work is being overseen by the Minister for Local Government, Housing and Planning.

The latest (15th) meeting of the Ministerial Working Group was on 4 February 2020. The next (16th) meeting is scheduled for 11 June 2020.

**Work Programme of the Ministerial Working Group**

- Building Standards Review of Compliance and Enforcement
- Building Standards Review of Fire Safety
- Review of Fire Safety Regime and Regulatory Framework for high-rise domestic buildings
- Inventory of high-rise domestic buildings in Scotland
- Fire Safety Campaign for high-rise domestic properties
- Practical Fire Safety Guidance for existing non-residential premises with sleeping accommodation
- Information gathering on the presence of ACM on high-rise domestic buildings and high-rise buildings with sleeping accommodation
- Information gathering on the presence of external wall insulation systems

**BUILDING STANDARDS REVIEW – ENFORCEMENT AND COMPLIANCE**

In January 2016 the brick outer wall of Oxgangs Primary School in Edinburgh collapsed during a storm. Further investigations of a number of Edinburgh schools built at the same time revealed that the principal cause of the collapse was the incorrect installation of wall ties reducing the structural capacity of the walls and their ability to resist the forces on the walls in periods of high winds.

Information provided by Scottish Local Authorities to the subsequent Independent Inquiry (The Independent Inquiry into the Construction of Schools in Edinburgh published in February 2017 chaired by Professor John Cole) identified the fact that similar defects had been found on a significant number of recently built schools across Scotland. Subsequent to the Independent Inquiry recommending the undertaking of risk-based assessments and investigations of all building types using similar construction to the Edinburgh schools, numerous other school and non-school buildings across Scotland have been found to suffer from the same defective masonry construction.
In the case of the Edinburgh Schools the Independent Inquiry also revealed that widespread defective installation of fire-stopping had been discovered across the schools investigated. The Report of the Independent Inquiry concluded that while these issues were primarily failures of the construction industry, they also represented non-compliance with the requirements of the Scottish Building Standards and were of a nature which could seriously compromise the safety of building users.

An Independent Inquiry was also held into the major construction defects leading to the enforced closure and part demolition of DG One, a large leisure facility in Dumfries. The Report of this Inquiry, published in April 2018, identified, in addition to a range of other defects, the widespread presence in the Dumfries building of the same two major safety-related defects found in the Edinburgh schools; defective masonry construction and widespread missing or inadequately installed fire-stopping.

In May 2018, Dame Judith Hackitt's Report into the Building Regulation system in England was published. The Report sets out recommendations around the design, construction, operation and maintenance of high rise residential buildings. The Hackitt Report concluded that the system in England was broken and that a complete overhaul of the regulations, guidance and compliance processes was required.

The Review Panel on Compliance and Enforcement in Scotland was set up in the latter part of 2017 under the chair of Professor Cole. It concluded that the Scottish system is not broken but that evidence clearly shows there is a need to strengthen compliance both in relation to statutory procedural requirements and in addressing non-compliant work on site. It also concluded that the approach to enforcement where non-compliance has been observed, as currently practiced by verifiers, does not appear to be effective and that enforcement needs to be more strongly implemented by Local Authorities.

The current system in Scotland has much to commend it, in particular the pre-emptive aspect of obtaining a building warrant prior to starting on site. The benefits of this element of the Scottish approach has been recognised in the recent consultation on Building Standards in England, which recommended the adoption of the Scottish pre-emptive approach for use in the case of high rise residential buildings as well as the creation of a new regulator to oversee work on high rise buildings.

The Review Panel concluded that, whilst simultaneously maintaining the core elements of the system, some reshaping would be advised to ensure that it addresses the identified weaknesses. The focus of this reshaping was to improve aspects of the current system and its implementation, not to fundamentally change the system.

The approach taken to the review of Compliance and Enforcement was to set up a Panel formed of experts from public and private sector bodies related to the design and construction industries in order to facilitate analysis of the issues from a full
range of perspectives. The Review Panel provided a forum for the presentation of evidence, with the opportunity to debate and test current theory and practice. The Review Panel met formally on three occasions over the period December 2017 to April 2018. The members of the Panel provided evidence based on their experience with regards to the current operation of the Building Standards system, its strengths and weaknesses, the areas where it was felt changes were required and the nature of potential changes that could be introduced to address the identified weaknesses.

The following is a summary of the recommendations offered for consideration by the Scottish Government:

- Support should be given to LABSS to establish appropriate courses for the training and qualification of professional staff and the establishment of more attractive career pathways in Building Standards to assist in their recruitment.
- A review of current staffing numbers and qualifications in Building Standards services across Scotland should be undertaken.
- Further ways for verifiers to share expertise and staff resources should be examined, particularly in relation to the specialist and safety critical areas.
- A combination of an insufficient number of site inspections and an insufficient focus of the limited number of inspections on key safety-related areas have helped to contribute to a situation where non-compliance in these areas is frequently failing to be identified, resulting in potentially unsafe building environments.
- Building Standards services should immediately make it a requirement for the submission of digital photographic evidence of fire-stopping installations.
- There should be stronger engagement with the Fire Authority at key stages, particularly at completion before occupation or use.
- The roles and responsibilities of verifiers and applicants in relation to site inspection and testing should be reviewed.
- There is a substantial opportunity for the greater use of digital technologies to share information between contractors and verifiers.
- There is a need to formally define what would be categorised for the purpose of the regulations as higher risk more complex buildings (the twenty per cent) to differentiate them from lower value and risk projects (the eighty per cent).
- It is proposed for the higher risk more complex category of buildings that pre-warrant application discussions become a mandatory part of the requirements of projects. These pre-assessments should be used to develop comprehensive Compliance Plans.
- Consideration should be given to the introduction of a requirement for the licensing of contractors to demonstrate their competence to undertake specific categories and sizes of work.
- Consideration be given to the introduction of a Certification of Compliance scheme which would require such certificates to be signed by an appropriately professionally qualified and registered person who would be independent from the contractor.
- The occupation of buildings should not be permitted under any form of certificate without appropriate assurance that the building is safe for occupation and formal acceptance of this by Building Standards.
• Amendments should be considered to the procedural requirement prohibiting the implementation of changes on site to the design before receipt of an amendment to warrant.

• The fee structure for staged warrants should be increased to reflect the additional work required by Building Standards services.

• It should be a requirement for the relevant person to submit copies of accurate as-built drawings with the completion certificate.

• The level of legal penalties when non-compliance with statutory procedures and standards occur should be reviewed in order to act as a true disincentive to building owners and developers who fail to take the necessary steps.

• Local Authorities must demonstrate a much greater preparedness to apply penalties for serious or continuous non-compliance.

• Verifiers should ensure that they retain records of all applications for approved design warrants and in circumstances where there has been no further notification of start on site, or requests for site visits or completion certificates after prescribed times they should contact the agents who submitted them to establish the status of these projects.

In the summer of 2018 the recommendations were taken forward into a consultation. A total of 222 responses were received to the consultation from individuals and organisations. 246 individuals attended world café events at Edinburgh, Glasgow, Stirling and Aberdeen to discuss proposals and help shape the policy.

For Compliance and Enforcement the vast majority of respondents said roles and responsibilities of all parties involved in the building standards system should be more clearly defined. Most respondents said it is essential for a stronger focus on safety critical elements throughout the build. Most believed there was already a strong focus on these aspects and that a holistic approach is taken to bring a focus on high risk and complex designs whilst the current approach to low risk buildings is retained.

The majority of respondents agreed that more and consistent resourcing of verification and better skilled verifiers are required. This can be achieved by Scottish Government setting a minimum requirement for skills and resource and that uneven levels of experience should be addressed with an up-skill in verifiers’ knowledge and competence to support independence in verification. It was recognised that building owners and developers also require the necessary skills and resource to assure themselves and the verifier of compliance.

In analysing the consultation responses it was clear that whilst some recommendations could be addressed quickly that not all could be implemented immediately and a process of development would be required. There was a need to work closely with not only verifiers but the wider construction industry to reshape the building standards system. The Minister agreed to the setting up of a Building Standards Futures Board to take forward the main intents of the review panel’s recommendations. The Futures Board has representatives from local authorities, industry and research sectors. The board chair as appointed by the Minister for Local Government, Housing and Planning is SOLACE representative Aubrey Fawcett. The workstreams of the Futures Board and progress over the past year is set out on page 14.
Short term changes were made and we have worked with Local Authority Building Standards Scotland to strengthen existing guidance on roles and responsibilities of everyone involved in achieving compliance with building standards. Guidance contained in the Building Standards Procedural Handbook has been updated to strengthen and clarify the roles and responsibilities of those involved from pre-application discussion, approval of a building warrant application, inspection and testing during construction and the types of information to show compliance throughout and at completion. This includes improved guidance on the inspection of large complex buildings and the need for inspections of key safety critical elements.

Guidance relating to the use of the Construction Compliance and Notification Plan has been updated to set out the key construction stages that will require inspection with specific advice on safety critical elements. The guidance stresses the importance of the verifier being notified at the correct time to undertake effective inspection and testing. The guidance encourages early engagement by all parties, regular communication and improved partnership working throughout the duration of the building project.

Longer term changes to the system are set out on page 17 under the Futures Board.

**BUILDING STANDARDS REVIEW – FIRE SAFETY**

The tragic fire in the Grenfell Tower on the 14 June 2017 which led to the deaths of 72 people was the worst fire in the United Kingdom since, at least, the Second World War. In response the Scottish Government immediately set up Ministerial Working Group on Building and Fire Safety to take forward a programme of work to look at not only high rise buildings in Scotland, but also the standards and regulations covering their construction, management and occupation. This programme of work also took account of other recent studies of the building standards system, including that undertaken into Edinburgh schools.

The Review Panel on Building Standards (Fire Safety) in Scotland chaired by Dr Paul Stollard was set up by the Ministerial Working Group. The parallel Review Panel on Compliance and Enforcement, chaired by Professor John Cole, was established at the same time and the work of the two panels was co-ordinated by the chairs.

Fire safety is covered in 15 functional standards within Section 2 of the Building (Scotland) Regulations 2004. These are supported by two Technical Handbooks (Domestic and Non-domestic), which provide guidance on methods of satisfying the functional standards. However the Technical Handbooks are not mandatory and designers can offer alternative methods of compliance with the functional standards for verification by local authorities.

The building standards system, the functional standards, and the process for verification in Scotland is completely separate and different from the building regulations system in England. This relies on Approved Documents, Approved Inspectors and local authority building control departments, it was this system which applied to the refurbishment of Grenfell Tower.
Since 2005, Section 2: Fire of the Technical Handbooks have included guidance on inhibiting the external spread of fire, fire spread within cavities and fire spread in external wall insulation. In particular in high rise domestic buildings (with a storey at a height of over 18m above the ground) this has been achieved by tightly restricting the materials which can be used. For this reason there has been limited use in Scotland of combustible rain screen cladding and insulation materials similar to those used in the refurbishment of Grenfell Tower.

The Review Panel on Building Standards (Fire Safety) in Scotland brought together the best available advice from within Scotland, as well as from the rest of the United Kingdom and other jurisdictions around the world. Individuals were appointed either because of their personal knowledge and expertise, or because they represented key stakeholders in the fire safety of high rise domestic buildings. Unsurprisingly there was a degree of overlap between the membership of the Review Panel and other inquiries which had already been established, or were to be established, examining similar issues. Two members of the Review Panel were expert advisers to Grenfell Inquiry chaired by Sir Martin Moore-Bick and one is providing advice to the Metropolitan Police on the on-going criminal investigations. Others were closely involved in the programme of large scale fire tests on cladding which was undertaken in late 2017. Representatives of the other building standards jurisdictions (England, Wales, and Northern Ireland) were invited. The Scottish Fire and Rescue Service and Local Authority Building Standards were also represented.

The remit and objective of the Review Panel were discussed and accepted, this was as follows:

- review standards in light of evidence from Grenfell Tower
- comment on appropriateness and relevance of the current standards and guidance consider the relevance of British Standard and European tests
- provide an opinion of whether or not any changes are necessary
- keep this under review, as further evidence emerges.

A smaller international group comprised of four members of the Inter-jurisdictional Regulatory Collaboration Committee (IRCC), representing Australia, Austria, Netherlands and the USA. This group met separately approximately after the full Review Panel to provide an international perspective and to suggest alternative or additional ideas. The international sub-group agreed that their role was to add a wider and independent perspective on the discussions of the main Review Panel.

The recommendations of the review panel were as follows:

- The current structure of mandatory functional standards supported with performance based or prescriptive guidance in the Technical Handbooks works and should be retained.
- The Technical Handbooks should make clearer the status, functions and limitations of the guidance.
- A better mechanism is required for the verification of fire safety engineering solutions for complex buildings and this might be in the form of a national “hub” to verify such applications.
• Changes are needed to the simple guidance on external cladding, cavities and fire spread on external walls (Standards 2.4 - 2.7):
  o Any building with a storey at over 11m above the ground should require A2 or better.
  o All entertainment and assembly buildings, residential care homes and hospitals of any height should also only be A2 or better.
  o BS8414 (and BR135) would remain as an alternative method of providing evidence to show compliance.
  o It is unhelpful and unnecessary to retain the British Standards as well as the European Standards in the guidance for “reaction to fire” tests.

• Changes are needed to the simple guidance on Escape (Standard 2.9). In domestic buildings over 18m there should be:
  o Two stairways.
  o Fire service activated evacuation sounders in each flat.

• The requirement for automatic fire suppression systems (Standard 2.15) should be extended to some additional building groups:
  o HMOs used for “care” 24/7 and HMOs with 10 or more residents.
  o Flats provided it can be done with simpler installations.
  o Single detached dwellings should not be included.

The consultation over the summer of 2018 received a total of 222 responses to the consultation from individuals and organisations. 246 individuals attended world café events at Edinburgh, Glasgow, Stirling and Aberdeen to discuss proposals and help shape the policy.

The majority of respondents agreed that that European Classification A1 and A2 should be introduced at 11m and to assembly/entertainment buildings, hospitals and residential care buildings of any height.

Respondents supported the continued use of the full scale façade test to BS 8414 (and BR 135) continue to be cited as an alternative.

The majority of respondents agreed that two stairs, an evacuation alert system to assist the fire and rescue services and automatic fire suppression systems should be introduced in new build flats, houses in multiple occupation with care 24/7 and large HMOs with more than 10 residents. Of those who disagreed, many cited cost and lack of evidence base to support the proposals.

We have now published revised Technical Handbooks (1 October 2019) to include more stringent fire safety provisions for external wall cladding systems, an additional escape stair, evacuation alert system and storey identification signs to help fire and rescue services in the unlikely event of a partial or full-scale evacuation of a high rise domestic building.

We have agreed to defer the introduction of automatic fire suppression systems (AFSS) in all new build flats, houses in multiple occupation with care 24/7 and large HMOs with more than 10 residents until 2021 to align with our commitment to introduce AFSS in new build social housing at that time.
We have considered the recommendation around the creation of a fire engineering hub for verification. This was supported by research to give an independent opinion on the need, appropriateness, potential structure and potential operations of a central hub for assisting in the verification of complex fire engineered designs. A broad cross-section of stakeholder groups in Scotland were consulted, including representatives from academia (fire engineering), architecture, architectural technology, Scottish Government Building Standards Division, the development community, the fire engineering community, the insurance industry, Local Authority Verifiers via Local Authority Building Standard Scotland (LABSS) and the Scottish Fire and Rescue Service (Fire Engineering Group).

It was recommended that the Scottish Government initiate an effort to develop a system of ‘risk categories’ for buildings in Scotland, so as to provide consistency in understanding and application amongst all stakeholders, including the public.

Ultimately, any approach to defining ‘high risk’ buildings in Scotland should begin with a discussion on defining and characterizing risk, and then moving on to categorizing or quantifying risk, as befits the selected model. Consideration of existing classification(s) of risk in the Scottish system would be a likely basis of such an effort (e.g., looking to ‘places of special risk’ and buildings that ‘pose a particular risk’ as discussed in the Technical Handbooks).

We have included the fire engineering hub within further work under the delivery model workstream of the Building Standards Futures Board. Further changes to the overall delivery of building standards services are being considered which can collectively harness the capacity and capability of the overall service. At present services such as eBuilding Standards allow greater sharing of workload between authorities allowing stretched authorities to be supported by others who have capacity and capability.

**FIRE SAFETY REGIME REVIEW**

The Ministerial Working Group (MWG) identified the need for a review of the fire safety regime to ensure that it and the regulatory framework in Scotland provides comprehensive protection to residents of high rise domestic buildings and is robust and fully fit for purpose.

Following this review six recommendations were made to the MWG and agreed in December 2018.

I. Specific fire safety guidance aimed at all residents of high rise domestic buildings. *Published on 4th December and distributed in December 2019 and January 2020.*

II. Introduction of Scottish guidance concerning ‘Fire safety in purpose built blocks of flats’. *Published 4th December 2019.*

III. Introduction of Scottish guidance concerning fire risk assessments. *Published 4th December 2019.*

IV. A consistent position regarding the storage, removal and enforced prohibition of combustible materials in common areas. *Published 4th December 2019.*
V. A fire safety campaign relative to common areas. Campaign scheduled for launch in Feb 2020


Update on progress

Fire Safety Guidance for Residents - Recommendation 1 Delivery: December 2019

After considering the public consultation responses and feedback from the engagement events it was decided that a fire safety leaflet delivered to all homes in high rise was the preferred method.

Leaflets have been sent to around 700 high-rise domestic buildings identified by the high rise inventory, around 45,000 individual flats. The leaflet has been sent with a covering letter explaining why the leaflet has been sent out, as well as encouraging residents to register any appliances they own. An additional 27,000 leaflets have been sent to libraries and community centres in the 15 local authorities identified as having high rise buildings in them.

A further 100 buildings have been identified by the high rise inventory and delivery of leaflets to these buildings will be complete by the end of January.

The leaflet is also available on the Scottish Government and SFRS web pages. The leaflet is currently being translated into a further five languages to improve accessibility and understanding of the information.

Monitoring and evaluation of the leaflet in terms of its reach and usefulness will take place in over the coming months in 2020.

Fire Safety Guidance, Risk Assessment & Framework - Recommendations 2, 3, 4

The “Practical Fire Safety Guidance for Existing High Risk Domestic Buildings” was published in December 2019 and disseminated to a wide range of stakeholders. The guidance includes that on fire risk assessments and a framework for managing combustible items left in common areas.

Monitoring and evaluation of the guidance will take place in 2020.

Fire safety campaign relative to common areas - Recommendation 5

SG Officials are working with Scottish Government Marketing and Communications colleagues on the campaign, including designing and producing materials and using local media and local stakeholders. The campaign is scheduled to be delivered in February 2020.

Specialised Housing Fire Safety Guidance - Recommendation 6 Delivery

The Specialised Housing Guidance is on track. The consultation closed on the 22 October with 38 responses and the Guidance is being revised in light of comments received. The guidance is scheduled to be published in February 2020.
FIRE AND SMOKE DETECTORS

Scotland has rigorous standards for smoke and fire alarms developed over time. It was announced on the 16 March 2018 that existing high standard for fire and smoke alarms required in private rented housing will be extended to all homes, regardless of tenure. We expect everyone to benefit from the same level of protection regardless of whether you own your home, or rent from a social or private landlord which is why we have extended the standard across all tenures.

Fire alarms are proven to save lives and are one of the most important investments you can make to protect life and property.

Tenants in the private rented sector (PRS) already have the highest standards of protection and we wanted that to be extended to everyone. Our consultation on fire and smoke alarms showed strong support for this change.

One of the new improvements for owner occupiers and tenants in the social housing sector is the increased alarm coverage. The new guidance specifies the following requirements:

- One smoke alarm installed in the room most frequently used for general daytime living purposes (normally the living room/lounge);
- One smoke alarm in every circulation space on each storey, such as hallways and landings;
- One heat alarm installed in every kitchen;
- All smoke and heat alarms to be ceiling mounted; and
- All smoke and heat alarms to be interlinked.

The new standard was implemented through amendment of Tolerable Standard. Draft secondary legislation was laid in Parliament on 23 November 2018 and considered by Local Government and Communities Committee on 19 December and made 1 February 2019 (coming into force 1 February 2021).

Tamper proof long-life lithium battery alarms or mains-wired alarms are permitted under the new standard. Having an interlinked system means you will be alerted immediately, regardless of the room in which the alarm is triggered, increasing the chance to escape.

The new standard also extends the requirement for carbon monoxide alarms in the PRS across all tenures.

A Fire and Carbon Monoxide Detection Loan Scheme closed for applications in November 2019. This was an interest-free loan for housing associations repayable across five years. Over £7 million has been paid out in loan funding to date.

The new standard comes into force from February 2021. As the date for the new legislation coming into force draws closer, the Scottish Government will work with SFRS, CoSLA and relevant landlord organisations to raise awareness of the new standard and ensure that homeowners and tenants receive the assistance and information they need.
INVENTORY OF HIGH-RISE BUILDINGS

As part of the Ministerial Working Group’s work plan, the development of a central source of information on key aspects of the construction and fire safety features of high rise domestic blocks was agreed. It is also a significant first step towards the Dame Judith Hackitt recommendations for a golden thread of information for high-rise residential buildings.

The High Rise Inventory (HRI) provides information on the construction and fire safety of high rise domestic buildings. A high rise domestic building is defined in building regulations as a domestic building with any storey at a height of more than 18 metres above the ground, and the HRI therefore includes data for both larger tenemental style buildings as well as those that might be more commonly understood as traditional high rise flatted accommodation.

The HRI data collection has been delivered through the Scottish Government’s ScotXed Unit, and continues initial data collection commissioned from Capita in 2018. It has been completed by Local Authority Building Standards departments for all relevant buildings, with data provided or verified to the best of the respondents’ knowledge at the time of completing the inventory, and should be treated as a snapshot in time.

The HRI exercise is to be an annual undertaking, following an iterative process of improvement. While there will be a small amount of missing data, it is intended that this shall be addressed in future exercises. Some information however may simply not be available due to e.g. redaction of building warrant information from paper files of a significant age.

Progress

On 19 December, Local Authority Building Standards departments were provided with the draft HRI summary report and an opportunity to address any outstanding data, or verify the data which has been provided, with a deadline of 28 January. SFRS have also been contacted to address the outstanding data relating to their questions on operational assurance visits.

Progress - Publication

Following officials’ consideration, it has been recommended that certain cladding information is redacted from the dataset publication.

Redaction will ensure that that the identification of cladding systems on individual buildings cannot take place, addressing fire safety concerns raised at the Committee evidence session in November on the potential risk from deliberate fire-raising. A detailed overview of the cladding situation shall however remain in the summary report (including building numbers and LA location information where this may be appropriate and does not lead to building identification). This follows the approach adopted by other administrations, including UKG through the MHCLG Building Safety Programme: Monthly Data Release and also by the federal states in Australia.
Requests to inspect or copy information within building warrant records can be made to the relevant Local Authority in accordance with the Building Standards Procedural Handbook. This sets out certain restrictions on access to records, in particular where there are security concerns. An FOI request for information within building warrants (including cladding information) can be lodged with Local Authority Building Standards departments, and it is for each Local Authority as to how they respond.

**HIGH PRESSURE LAMINATE CLADDING (HPL)**

The UK Government was advised by its Independent Expert Advisory Panel to establish a research project to test and improve the evidence available on the behaviour of a range of non-ACM materials used in cladding systems when subjected to fire. The Building Research Establishment (BRE) was commissioned to undertake this project.

The UK Government also commissioned a large scale test on a high pressure laminate panel (HPL) system. This large scale test, undertaken by the Fire Protection Association (FPA), tested an HPL panel system with stone wool insulation, in accordance with British Standard BS 8414. The test achieved a BR 135 classification (i.e. the cladding system passed the test). However, advice was that other configurations of HPL cladding systems may not pass.

**Cladding requirements in Scotland**

- Since 1 May 2005, building regulations have required all cladding systems on high-rise domestic buildings to be European classification A1 or A2 or to pass a large-scale fire test and for sprinklers to be installed.
- External cladding on high-rise domestic buildings for which a building warrant was applied prior to 1 May 2005, had to meet a Class 0 classification, which was the most demanding anti-flame spread classification at the time.
- In the summer of 2018, we consulted on the recommendations of the Review Panel on Fire Safety in Building Standards.
- On 1 October, the Scottish Government introduced new regulations which will make Scotland’s high-rise buildings even safer. These include:
  - Lowering the height at which combustible cladding can be used from 18 metres to 11 metres to align with fire-fighting from the ground.
  - Tighter controls over the combustibility of cladding systems on hospitals, residential care buildings, entertainment and assembly buildings regardless of any building height.
  - Introducing evacuation sound alerts, floor and dwelling indicator signs and two escape stairs in all new high rise domestic buildings.
  - We have also made a commitment to introduce a mandatory requirement to install sprinkler systems in all new build flats, certain multi-occupancy dwellings and social housing from 2021.

**Extent of HPL cladding in Scotland**

The Scottish Government is now undertaking an exercise to establish the extent of the use of external HPL cladding in buildings across Scotland. This exercise moved from design to data collection in January 2020.
The targeted HPL Data Return submission deadline for the sectors issued to date, other than high-rise domestic buildings, is late February 2020.

A total of 9 sectors of buildings across Scotland have been identified for HPL Data collection, as follows:

1) Assembly & Entertainment Buildings
2) Care Homes
3) Colleges of Further Education and University Buildings
4) High-Rise Domestic Buildings
5) Hotels
6) Independent Schools
7) Local Authority Schools
8) NHS Scotland Buildings
9) Scottish Prison Service Buildings

Data requests are still to be issued in respect of the following sectors:

- High-rise domestic buildings – on completion of the final cut of the High Rise Inventory (HRI) data a targeted, prepopulated HPL questionnaire will be issued to local authorities with such buildings;
- Assembly and entertainment buildings – the definition of these types of buildings are extremely wide-ranging and appropriate parameters for the scope of the exercise are being established.

BUILDING STANDARDS FUTURES BOARD

The Building Standards Futures Board was set up at the beginning of 2019 to provide guidance and direction on the development and implementation of recommendations made by the Review Panels on Compliance and Enforcement and Fire Safety. The Review Panels were formed by the Ministerial Working Group on Building and Fire Safety following failings in the construction of Edinburgh School Buildings and the fire at Grenfell Tower, London.

The Board is chaired by Aubrey Fawcett. Aubrey is Chief Executive of Inverclyde Council and he also represents the Scottish branch of the Society of Local Authority Chief Executives (SOLACE).

Board Membership

- Aubrey Fawcett, Chief Executive, Inverclyde Council, SOLACE (Chair)
- Dave Aitken, Local Authority Building Standards Scotland (LABSS)
- Nicola Barclay, Homes for Scotland
- Craig Ross, Royal Institution of Chartered Surveys (RICS)
- Ron Fraser, Construction Scotland
- Robert Nicol, COSLA
- Colin Proctor, Scottish Futures Trust
- Mike Foy OBE, Chartered Institute of Building (CIOB)
- Stephen Good, Construction Scotland Innovation Centre (CSIC)
- Gordon Nelson, Federation of Master Builders
• Graham Martin, RIAS
• Cheryl Cox, Certification Scheme Providers

The Board’s remit is to strategically advise and direct a broad programme of work aimed at improving the performance, expertise, resilience and sustainability of the Scottish building standards framework and services across Scotland.

There are seven work streams being taken forward by the Scottish Government’s Building Standards Division, involving a range of stakeholders from construction industry organisations, professional and public bodies including Scottish Futures Trust, Skills Development Scotland, Universities and local authorities (through Local Authority Building Standards Scotland - LABSS).

Progress

In 2019 the Futures Board met in May, July, September and December. Work streams are being led by BSD with good progress being made. Future meetings will be held in March and June 2020. An update on each of the work streams is given below:

Certification Strategy

Re-appointment of current Certification bodies is ongoing and due to be completed by March 2020. A strategy for the future development of certification is being prepared to identify priorities and a range of short, medium and long term actions. Progress to date:

• Certification Scheme Providers (SPs) have been advised that 21 February 2020 is the deadline for the submission of applications for re-appointment. Re-appointments will be completed by 31 March 2020.
• One new application for Scheme Provider status is expected in February 2020.
• Research on the potential for a certification scheme for fire safety is underway. Focussing on the demand for a service and capacity of industry to deliver, a stakeholder event was held in January 2020.
• A Certification strategy is being developed. This will clarify certification roles with potential for legislative amendments in regard to a number of areas including the status of ‘Approved Bodies’, improving the digital platform to reflect certification and reporting requirements set out within legislation.

Digital Strategy

An eBuilding standards national portal was introduced in 2016. The portal enables the electronic submission of applications for building warrants and other forms, such as completion certificates. This project will explore how digital technology can support and enhance building standards. Progress to date:

• Scoping study exploring digital improvements and developments for the Scottish Building Standards system has been undertaken.
• Workshop for local authorities on Digital Transformation planned for February 2020. This will identify what is working well, known challenges affecting uptake of digital technologies and how things can be moved forward. Survey underway on the use of digital technology in building standards service delivery.
• In discussion with Scottish Futures Trust and SG Digital Planning to assess improvements for introduction as part of future development of an eDevelopment national platform.
• Work stream update and way forward document to be prepared for March 2020.

Delivery Model
The current delivery model has the 32 Scottish local authorities appointed as verifiers, covering their own geographical area. The need for a potentially improved and reshaped verification delivery model has been identified, including a review of the need for central hubs of expertise. Progress to date:
• On-going research reviewing the current delivery model used to deliver verification services in Scotland and identify options for improvements to ensure the service is fit for the future.
• Workshop exploring delivery models and requirements for building standards took place early January 2020.
• Work stream update and development of an options and forward look paper to be prepared for March 2020.

Verification Standard
A review of the Operating and Performance Frameworks to assist verifiers in assessing their service against requirements is being undertaken. Verification standards will focus on the quality with which verification work is undertaken linking with the skills and experience of verifiers and applicants. Progress to date:
• Operating and Performance Frameworks to be reviewed 2020 providing an opportunity to develop standards for verification activity and integrate outputs currently being developed.
• Plans being taken forward for the introduction of local authority focus groups, self-assessment tools and improvement logs.
• Performance has been analysed in more depth using Key Performance Outcomes and the Performance Framework leading to revised and updated appointment criteria for local authorities.

Technical Strategy
Technical guidance is used to meet building regulations and assist with compliance with the mandatory functional standards. A review on how the Technical Handbooks are developed and communicated is being undertaken. The technical strategy will direct how Scottish Government updates and provides guidance in the future. The technical strategy may encompass more digital options to improve compliance. Progress to date:
• A review of the Technical Handbooks is on-going with a questionnaire seeking feedback on the accessibility, clarity and usability of the Technical Handbooks and published guidance.
• Analysis of responses to questionnaire being completed.
• Work stream update and way forward document to be prepared by March 2020.
Workforce Strategy
Facing an ageing workforce as well as lack of re-investment in staff and innovation of the service, the principles of the workforce strategy will focus on identifying what is required to underpin a verification service for the future. Progress to date:

- Workforce data collection and analysis completed across 32 local authorities.
- Research on-going to develop a workforce strategy.
- Working Group established to inform strategy development.
- In January a workforce strategy implementation workshop took place with the aim of securing endorsement from local government stakeholders for the strategy.
- Supporting work being undertaken by Local Authority Building Standards Scotland to develop, test and launch a Competency Assessment System (CAS) to assess skills and identify gaps.
- Exploring the potential for the development of new apprenticeship pathways, or adapting existing options, specifically for building standards. Meeting Skills Development Scotland to investigate funding options.
- Engagement with a range of industry and local government partners to promote building standards as a profession through improved information about careers and the development of an outreach programme.

Compliance Plan Approach
Large complex projects often change during the construction journey. Recent building failures have highlighted the need to ensure that designs receiving a building warrant are constructed in accordance with that design (especially the safety critical features). A compliance plan approach for complex and high value public buildings is being explored. Progress to date:

- Meeting with The Royal Institute of the Architects of Ireland (RIAI) and the Irish Government (Department of Housing, Planning and Local Government) in Dublin took place November 2019.
- Stakeholder engagement undertaken with Health and Safety Executive, Local Authority Building Standards Scotland, designers, architects and engineers and building contractors.
- Further engagement with RIAS and contractors taking place early 2020.
- Additional pilot sites at West Lothian and Stirling added to the Compliance and Quality Assurance Initiative.
- Research on-going examining the reform of the building standards system in Ireland. Research on Compliance in High Hazard Industries is also progressing, exploring how compliance is achieved across a range of alternative sectors.
- Work stream update and way forward document to be prepared by March 2020.

How the Compliance Plan Approach might work
The Compliance Plan seeks to improve existing measures and requirements throughout the compliance process, from concept design through to completion. The current process is pre-emptive and relies upon verifiers approving designs before work can commence on site. Previous reviews, including those by Professor John Cole and Dame Judith Hackitt, have detailed the benefits of the existing Scottish
building standards system. The intention of the Compliance Plan is to ensure these positive elements remain but additional strengthening elements are added to provide greater assurance that completed buildings are compliant with the building regulations.

A final report will be presented to the Futures Board in March which will consider how the Compliance Plan approach could become part of the principal approval process by examining whether to mandate new roles and responsibilities, procedures, and evidence recording to establish a suite of compliance documentation for each project.

This could include the introduction of Design and Construction ‘Compliance Managers’, or new documented submissions that ensure all parties within the compliance process collaboratively commit to ensure compliance is achieved. Similarly, requirements for new inspection and test plans to form part of a completion process that continues the golden thread of building compliance evidence may be required. A new ‘Compliance Certificate’ at the completion stage may be justified to certify that the building has been robustly evidenced to meet building regulation, potentially using both traditional inspection methods and modern technologies such as scans, Augmented Reality/Virtual Reality or cloud-based systems data.

**DAME JUDITH HACKITT REVIEW**  
**Review of Building Regulation and Fire Safety (England)**

Following the Grenfell Tower fire in June 2017, Dame Judith Hackitt was appointed to conduct a review of building regulations and fire safety in England. In December 2017 an interim report was published, in which she said the English system was, “not fit for purpose”. In May 2018 the Final Report of Building a Safer Future – Independent Review of Building Regulations and Fire Safety, was published setting out a set of recommendations aimed at overhauling the system.

**UK Government Consultation**

In June 2019, the UK Government launched an 8 week consultation on its proposed reform of building safety requirements. The consultation built upon the recommendations set out by Dame Judith and span 5 broad areas, as follows:

- the scope of the new regime
- the concept of dutyholders who have clear responsibilities throughout a building’s design, construction and occupation
- giving residents a stronger voice in the system and ensuring their concerns are never ignored
- plans for a new building safety regulator to provide oversight of the new building safety regulatory regime
- strengthened enforcement and sanctions to deter non-compliance with the new regime.

The UK Government’s intention had been to work at pace, setting out its response to the consultation. However, this is still awaited.
Work in Scotland has continued on the basis of the recommendations of our own reviews of Building Standards and of the Fire Safety Regime and having implemented a range of measures (such as revised guidance for residents and managers of high-rise domestic buildings and introducing more stringent building standards for fire safety) we are continuing to work to improve building safety in Scotland.

Scottish Government officials are maintaining liaison with officials in the UK Government with respect to their proposals, particularly with regard to any reserved matters, such as product safety.

Summary of Recommendations set out in the Hackitt Report:
1. Setting out a new regulatory framework as a new structure for the system (initially for higher risk residential buildings) and establishing a new Joint Competent Authority, to oversee risk management and mandatory incident-reporting.
2. The design and construction phases are focused on providing clarity and rigour to dutyholders, strengthening regulatory oversight and improving enforcement powers.
3. In the occupation phase, an identified individual or body is to be the dutyholder with responsibility for the building safety of the entire building, reporting on safety to the Joint Competent Authority. Residents would also have clearer rights and responsibilities.
4. Tenants would have rights to recourse as well as reassurance through information about the building.
5. Improving the skills and competence of those involved throughout the construction and fire safety sectors is highlighted in the recommendations.
6. Improving the structure of the building standards and technical guidance.
7. There is focus on products used within construction, their testing, labelling and traceability aimed at driving improved performance and quality control.
8. A requirement to establish a digital record of each high risk residential building, containing information from design, construction and any subsequent changes, is set out.
9. Tackling poor procurement practices, is aimed at promoting high-safety, low-risk options.
10. Ensuring continuous improvement and best practice learning through membership of an international body.

Impact of reserved matters on Scotland
Items 5 and 7 above on skills / competence and construction products are reserved areas, but have potentially direct impact on building standards in Scotland.

A lack of suitably qualified professional and tradespeople has consistently been highlighted by critics of the construction industry. There is a clear need to ensure that those involved in the design, construction, operation and maintenance of buildings are suitably qualified and can successfully apply their competence and skills to all construction works.

The MHCLG consultation looked at the regime around construction products with proposals to set up a stricter approach on the acceptability of test reports. A parallel
system to CE marking was proposed. A new construction product regulator has been proposed to ensure that the new regime is properly overseen and enforced.

The Scottish Government has liaised with colleagues in UK Government running up to the consultation and will further liaise as the work roles out to introduce tougher regulation of both people and products. We will consider how best to incorporate such regimes within the building standards system, in particular for higher risk and high rise buildings.

UK GOVERNMENT ANNOUNCEMENTS
Statement by the Secretary of State: 20 January 2020

The Scottish Government welcomed the announcement by the UK Government of the further measures it intends to implement to improve building and fire safety, much of which stemmed from the report it commissioned from Dame Judith Hackitt.

Before publication of her report, the Scottish Government had discussions with Dame Judith Hackitt during the development of her report. Dame Judith is aware of the system in Scotland and made recommendations in her report that draw upon our pre-emptive building standards system as well as our structures for engagement with tenants and residents.

Building Safety Regulator within Health and Safety Executive
The Scottish Government has no plans to mirror the proposed building safety regulator. Our focus has been on improving the safety of buildings through more stringent building standards and associated guidance and through guidance for those involved in the ownership and management of high-rise housing.

Scottish Government officials have engaged with the Health and Safety Executive on their potential role as regulator for England.

We will also be keen to hear how the UK-wide remit of the Health and Safety Executive may be impacted. We await further detail on how the regulator is to be formed and its full remit before commenting further.

ACM-PE Cladding on residential buildings of any height
The Scottish Government undertook a review of Fire Safety in Building Standards, which reported its recommendations to the Ministerial Working Group on Building and Fire Safety in June 2018. The Review Panel comprised independent experts across a range of specialisms, supplemented by an international sub-panel of experts. The Scottish Government accepted all its recommendations and, following consultation, almost all of these have been implemented.

On 1 October 2019, the Scottish Government reduced the trigger height for combustible cladding on buildings from 18 metres to 11 metres, in line with one of the recommendations of the Review Panel. Notwithstanding that, we will give careful consideration to the advice of the UK Government’s Expert Panel and will review if its advice is appropriate also in Scotland.
Scottish Government response on other measures announced by UK Government

The new regulations which we introduced in Scotland on 1 October last year brought into force a number of the measures announced by the UK Government on the 20 January 2020:

- The Scottish Government took over David Stewart’s Private Member’s Bill seeking sprinklers in all new social housing.
- We have committed to extend the mandatory installation of sprinklers regardless of building height to new social housing, all new flats and consider extending this to new certain multi-occupancy buildings, this will be done before April 2021.
- There is more to fire risk of a building than simply cladding which is why we introduced a range of measures aimed at reducing the risk of fire which will make Scotland’s high-rise buildings even safer.
- As well as reducing the height at which combustible cladding can be used, from 18 metres to 11 metres, we have introduced:
  - Tighter controls over the combustibility of cladding systems on hospitals, residential care building, entertainment and assembly buildings, regardless of height.
  - Evacuation sound alerts, floor and dwelling indicator signs and two escape stairs in all new high-rise domestic buildings.

GRENFELL INQUIRY: PHASE ONE REPORT

The Grenfell Inquiry Phase 1 Report was published on 30 October 2019. The report set out the events of the night of 14 June 2017, including the origin of the fire, its subsequent development, the response of the London Fire Brigade and the steps taken by the other emergency services.

The Inquiry Chair, Sir Martin Moore-Bick, concluded that the cladding was not compliant with the building regulations in England at the time of construction. The report also contains a number of recommendations, most of which are centred on the London Fire Brigade’s response to the incident. Phase 2 of the Inquiry will look at issues including London Fire Brigade, testing and certification of materials, other elements of construction and the authorities’ response to the disaster. Phase 2 hearings commenced in January 2020 and the Scottish Government will monitor proceedings.

There are 46 recommendations in the Phase 1 report, which are split as follows:

- London Fire Brigade – 23 recommendations.
- Fire and other emergency services – 8 recommendations.
- Directed at those who own or are responsible for relevant buildings - 14 recommendations.
- Directly at the UK Government – 1 recommendation.

Response to Grenfell Tower Inquiry Phase 1

The Scottish Government is carefully studying the findings set out in the report and assess if there are lessons from which we can learn to further improve the safety of our buildings. For this, a Working Group has been established, comprising Scottish
Government officials and SFRS to consider the recommendations and what actions, if any, are needed in Scotland. This Working Group will report to the Ministerial Working Group on Building and Fire Safety in the summer 2020.

The Scottish Fire and Rescue Service have advised that they too will fully consider the findings and implications of the recommendations of the report as well as those of the London Fire Brigade’s own report on this devastating fire. If any changes are deemed necessary The Scottish Fire and Rescue Service will work closely with communities, partners and staff along with Scottish Government to ensure that they are introduced safely and effectively.

The three recommendations directed at building standards and housing are all matters which are devolved to the Scottish Government, as follows:

- That all high-rise residential buildings (both those already in existence and those built in the future) be equipped with facilities for use by the fire and rescue services enabling them to send an evacuation signal to the whole or a selected part of the building by means of sounders or similar devices.
- That in all high-rise buildings floor numbers be clearly marked on each landing within the stairways and in a prominent place in all lobbies in such a way as to be visible both in normal conditions and in low lighting or smoky conditions.
- That all those who have responsibility in whatever capacity for the condition of the entrance doors to individual flats in high-rise residential buildings, whose external walls incorporate unsafe cladding, be required by law to ensure that such doors comply with current standards.

Scottish Government introduced new regulations on 1 October 2019 requiring evacuation sounders and dwelling indicator signs in all new high-rise buildings. However, building standards are not retrospective and provision has not been made for implementing this in all existing buildings. To introduce such requirements into existing high rise buildings would require new legislation and consideration of the feasibility of so doing, both in terms of scale and practicalities round installation.

The report relates to current English legislation, where the requirement is for 30 minute fire doors in high-rise residential buildings. In Scotland, since 2005, the requirement has been for 60 minute fire doors in such situations. Where building owners in high rise property have replaced fire doors with non-rated doors then this situation should be rectified. Local authorities have powers to mandate replacement where required.

One of the findings of this phase of the Inquiry is that the cladding installed on Grenfell Tower (aluminium composite material with a polyethylene core, ACM-PE) did not comply with English building regulations at the time it was installed. In Scotland prior to 1 May 2005 the Class 0 surface spread of flame was the safest category of cladding available. However, Scottish building standards have since then required more stringent Euroclasses A1/A2 or a large scale fire test. As such limited ACM-PE was installed in Scotland in comparison with England. The role of testing, certification and regulatory control will be examined in more detail in the next phase of the inquiry and will provide further recommendations. The granting of a Class 0 category to ACM-PE cladding will likely form part of the Inquiry’s work.
GRENFELL INQUIRY: PHASE TWO

The Chair of the Public Inquiry has set out the issues to be considered in Phase 2 of the Inquiry and it is expected that at that stage there will be further matters which relate to building standards. It will look at issues including London Fire Brigade, testing and certification of materials, other elements of construction and the authorities’ response to the disaster.

Phase 2 hearings commenced in January 2020 and the Scottish Government will monitor proceedings.
STAY PUT GUIDANCE

Background

During the Local Government and Communities Committee session, questions were asked around guidance to residents of high-rise buildings and in particular regarding stay-put.

The Convener: Who has control over the guidance? Is it the Government or the Fire and Rescue Service?

The Convener: Yes. I am referring to the stay-put guidance. Would that be under the control of the SFRS?

Kevin Stewart: We will need to get back to you on that. That would come under the operational jurisdiction of the SFRS. I see Ms Ewing nodding, so perhaps I am right. I would say that that is an operational point. As I said to Mr Stewart, we are, together with others, examining research on stay-put, but I would rather that you got a more robust answer on that from the SFRS, rather than having me going off on one that might not be quite right.

The Convener: I appreciate that.

Update

The Scottish Government published “Practical Fire Safety Guidance for Existing High Risk Domestic Buildings” in December 2019, however it is important to stress the "stay put policy" is a principle of building design, which underpins the development of fire safety and Fire Service operational policy for high rise buildings. Most high rise domestic buildings are built with the principle of 'stay put' in mind. This means that flats will be designed to resist the spread of fire with features such as fire resistant doors, floors and walls and self-closing devices. Because of this, a fire is not likely to spread from one flat to another.

Stay Put’ is the following approach:

- When a fire occurs within a flat, the occupants alert others in the flat, make their way out of the building and summon SFRS.
- If a fire starts in the common areas, anyone in these areas makes their way out of the building and summons SFRS.
- All other people in the building not directly affected by the fire would be expected to ‘stay put’ and remain in their flat unless directed to leave by SFRS or the Police.
- Any person not directly affected by fire or smoke can leave the building if they wish, although doing so could place them at greater risk.
- Occupants evacuating a flat where there is fire can alert their neighbours so that they can evacuate if they feel threatened.
SFRS will give initial advice over the phone to residents who dial 999. Upon arrival, firefighters will take control of the incident and may advise further, as necessary. There may be fires where, for operational reasons, SFRS decides that a partial or total evacuation of a high rise is necessary. These uncommon situations include where a fire spreads beyond the flat of origin as a result of failings in the construction. More modern high rise domestic buildings may have an evacuation alert system for SFRS use, to allow them to instigate the evacuation of a floor, multiple floors or an entire building. (This was introduced on 1 October 2019 in the Scottish Domestic Technical Handbook).

The stay put approach has been in place for many years and, although fires in flats unfortunately occur virtually every day across the UK, the fire usually only affects the room or flat of origin. It is unusual for fires in individual flats to spread beyond the room of fire origin, and very rare for those to spread beyond the compartment (i.e. beyond the flat of origin).

Implementation of fire safety policies and procedures are an operational matter for the SFRS. The ‘Stay Put’ approach is supported by the SFRS and is in line with the UK wide National Fire Chiefs Council (NFCC) advice which is regularly reviewed.

The NFCC has a key role on the Government’s newly-formed Stay Put technical steering group, which met for the first time on the 18th of December 2019. The group will oversee research on means of escape from a design, management and operational perspective. The SFRS is sighted on this work through their participation in various NFCC workstreams. The Scottish Government is keeping fully abreast of this research to be able to quickly consider and act on any learning as part of the ongoing examination of stay put.
# Annex F

## TIMELINE – BUILDING STANDARDS AND FIRE SAFETY IMPLEMENTATION

### Background

Following my appearance at the Local Government and Communities Committee on the 22 January 2020, the Clerk to the Committee contacted my office with the additional ask:-

“I've had a further request from Members for a sort of timeline of the post-Grenfell policy implementations on building standards and fire safety; what has already been implemented and what is in the pipeline.”

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<tr>
<th>Action</th>
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<tr>
<td>Announced that the existing high standard for fire and smoke alarms required in private rented housing will be extended to all homes, regardless of tenure.</td>
<td>16 March 2018</td>
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<td>David Stewart MSP lodged a final proposal for a Social Housing (Automatic Fire Suppression Systems) (Scotland) Bill.</td>
<td>22 May 2018</td>
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<tr>
<td>Scottish Government confirmed it will initiate legislation to require new-build social housing to be fitted with automatic fire suppression systems (AFSS).</td>
<td>20 June 2018</td>
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<tr>
<td>Scottish Government launch ‘Building Standards Compliance and Fire Safety – a consultation on making Scotland’s buildings safer for people’.</td>
<td>04 July 2018</td>
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<tr>
<td>Scottish Government’s ‘Building Standards Compliance and Fire Safety – a consultation on making Scotland’s buildings safer for people’ closes.</td>
<td>28 September 2018</td>
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<tr>
<td>The fire and smoke alarm new standard was implemented through amendment of Tolerable Standard. Draft secondary legislation was laid in Parliament.</td>
<td>23 November 2018</td>
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<tr>
<td>Ministerial Working Group on Building and Fire Safety agree to implement all recommendations to come from the Building Standards Compliance and Fire Safety Reviews.</td>
<td>06 December 2018</td>
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<tr>
<td>Ministers commit to extend the mandatory installation of sprinklers to all new build flats and maisonettes and to investigate the case for similar provision in new build multi-occupancy dwellings used for “care” 24/7, and large multi-occupancy dwellings with 10 or more residents.</td>
<td>08 December 2018</td>
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<tr>
<td>The fire and smoke alarm new standard was implemented through amendment of Tolerable Standard. Draft secondary legislation considered by Committee.</td>
<td>19 December 2018</td>
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<tr>
<td>Building Standards Fire Safety Review - The Building (Scotland) Amendment Regulations 2019 laid before the Scottish Parliament.</td>
<td>14 June 2019</td>
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<tr>
<td>Building Standards Fire Safety Review - Revised technical handbooks published.</td>
<td>12 July 2019</td>
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| Building Standards Fire Safety Review - The Building (Scotland) Amendment Regulations 2019 comes into force.  
  • Removal of reference to British Standards for reaction to fire. | 01 October 2019    |
- Amended mandatory Standard 2.4 on Cavities, the only legislative change.
- Reduced trigger height for A1 and A2 cladding and insulation exposed in the cavity from 18m to 11m for all domestic and all non-domestic buildings.
- Introduced A1 or A2 external wall cladding to assembly and entertainment buildings, hospitals and residential care buildings (unless they are of small areas and of less than 11m height). We continue to cite the full scale façade test to BS 8414 (and BR 135) as an alternative method of satisfying building regulations.
- Two escape stairs in high rise flats are now required in high rise flats with a floor over 18m.
- An evacuation alert system has been introduced for all new high rise domestic buildings for use by the fire and rescue service in the unlikely event of a partial or full evacuation of the building.
- Storey identification signs and dwelling indicator signs will be required to high rise flats to assist the SFRS with their fire-fighting and rescue operations.

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<thead>
<tr>
<th>Fire Safety Regime Review</th>
<th>Specific fire safety guidance aimed at all residents of high rise domestic buildings.</th>
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<tbody>
<tr>
<td></td>
<td>Published on 4th December and distributed in December 2019 and January 2020.</td>
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<th>Fire Safety Regime Review</th>
<th>Introduction of Scottish guidance concerning ‘Fire safety in purpose built blocks of flats’.</th>
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<th>Fire Safety Regime Review</th>
<th>A consistent position regarding the storage, removal and enforced prohibition of combustible materials in common areas to be published.</th>
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<tr>
<th>Fire Safety Regime Review</th>
<th>A fire safety campaign relative to common areas. Campaign scheduled for launch in Feb 2020</th>
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<tr>
<th>High-Rise Inventory (HRI)</th>
<th>Summary report and data set to be ready for publication.</th>
</tr>
</thead>
<tbody>
<tr>
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<td>March 2020</td>
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<td>Early 2020</td>
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<td>May 2020</td>
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<tr>
<th>The fire and smoke alarm new standard was implemented through amendment of Tolerable Standard. Comes into force:</th>
<th>01 February 2021</th>
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| Automatic Fire Suppression Systems - Regulations come into force | 01 February 2021 |