LOCAL GOVERNMENT AND COMMUNITIES COMMITTEE

AGENDA

3rd Meeting, 2020 (Session 5)

Wednesday 22 January 2020

The Committee will meet at 9.45 am in the James Clerk Maxwell Room (CR4).

1. **Decision on taking business in private**: The Committee will decide whether to take item 5 and 6 in private. The Committee will also decide whether to take future consideration of its draft report on the Period products (Free Provision) (Scotland) Bill in private.

2. **Subordinate legislation**: The Committee will take evidence on the Relevant Adjustments to Common Parts (Disabled Persons) (Scotland) Regulations 2020 [draft] from—

   Kevin Stewart, Minister for Local Government, Housing and Planning, and
   Angela O’Brien, Housing and Independent Living Team Leader, Scottish Government.

3. **Subordinate legislation**: Kevin Stewart, Minister for Local Government, Housing and Planning to move—

   S5M-20243—That the Local Government and Communities Committee recommends that the Relevant Adjustments to Common Parts (Disabled Persons) (Scotland) Regulations 2020 [draft] be approved.

4. **Building regulations and fire safety in Scotland**: The Committee will take evidence from—

   Kevin Stewart, Minister for Local Government, Housing and Planning,
   Stephen Garvin, Head of Building Standards Division, and Chris Booth,
   Policy Officer Fire Rescue Unit, Scottish Government.

5. **Building regulations and fire safety in Scotland**: The Committee will consider the evidence heard earlier in the meeting—

6. **Work programme**: The Committee will consider its work programme, including
consideration of evidence from the Accounts Commission 8 January.

Peter McGrath
Clerk to the Local Government and Communities Committee
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The Scottish Parliament
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The papers for this meeting are as follows—

**Agenda item 2 and 3**

Note by the Clerk  LGC/S5/20/3/1

**Agenda item 4**

Note by the Clerk  LGC/S5/20/3/2

PRIVATE PAPER  LGC/S5/20/3/3 (P)

**Agenda item 6**

PRIVATE PAPER  LGC/S5/20/3/4 (P)
Overview of instrument

1. The following instrument, subject to affirmative procedure, is being considered at today’s meeting:

   - Relevant Adjustments to Common Parts (Disabled Persons) (Scotland) Regulations 2020

Background

2. These Regulations set out the process by which a disabled person may carry out relevant adjustments to common parts of premises if the disabled person uses or intends to use the premises as their only or main home, and a majority of the owners of the common parts consent. These Regulations are made under section 37(1) and 207(4)(b) of the Equality Act 2010 (“the Act”). The policy note for the instrument provides further detail and is attached at Annexe A.

3. An electronic copy of the instrument is available at:


4. The Committee needs to report on this instrument by 30 January 2020.

Delegated Powers and Law Reform Committee consideration

5. The Delegated Powers and Law Reform Committee considered this instrument at its meeting on 17 December 2019 and determined that it did not need to draw the attention of the Parliament to the instrument on any grounds within its remit.

Procedure

6. Under Rule 10.6.1 (a), this instrument is subject to affirmative resolution before it can be made. It is for the Local Government and Communities Committee to recommend to the Parliament whether the draft instrument should be approved.

7. The Minister for Local Government, Housing and Planning has, by motion S5M-20243 (set out in the agenda) proposed that the Committee should recommend the approval of this statutory instrument. The Minister will attend in order to speak to and move the motion. Ahead of the formal debate (as part of an earlier agenda item), there will be an opportunity for members to ask questions of the Minister and his officials on the background to and purpose of this instrument.
8. At the end of the debate, the Committee must decide whether or not to agree the motion, and then report to Parliament accordingly. Such a report need only be a short statement of the Committee’s recommendations.
ANNEXE A

POLICY NOTE

Relevant Adjustments To Common Parts (Disabled Persons) (Scotland) Regulations 2020

1. The above instrument is made in exercise of the powers conferred by section 37 of the Equality Act 2010 and by all other enabling powers. The instrument is subject to the affirmative procedure.

Purpose of the instrument.

2. These Regulations provide for disabled persons to make relevant adjustments to common areas.

Policy Objectives

3. Currently, disabled people can make relevant adjustments (adaptations) to common areas with the consent of all owners. The Regulations will enable disabled people to make relevant adjustments with the consent of a majority of owners. A majority means a simple majority of one. Owners must not unreasonably withhold consent but can apply reasonable conditions.

4. In the event of a dispute, either the disabled person or any of the owners may apply to the Sheriff for a final decision.

Consultation

5. A full consultation was conducted in 2011. At that time 92% of respondents agreed with the proposal to draft the Regulations. Since then, to ensure current views are reflected, we have worked with key stakeholders, in an ongoing process, including members of the Accessible Housing Group which includes COSLA, ALACHO and organisations which represent disabled people. Feedback from stakeholders including EHRC has been taken into account by the Scottish Government Legal Directorate (SGLD) when developing the final draft.

6. One example of a revision to the Regulations, as a result of stakeholder feedback, was the removal of the requirement placed on the disabled person to register the relevant adjustment as it could have proved prohibitive owing to the costs which would be incurred.

Business and Regulatory Impact Assessment
7. No Business and Regulatory Impact Assessment has been carried out as no significant impact is foreseen on the Scottish Government, local government, business, charities or voluntary bodies. Disabled people currently have the right to make relevant adjustment with the consent of all owners.

Financial Effects

8. There are no financial implications for the Scottish Government. Any additional costs incurred by local authorities would be as a result of providing additional grant funding for relevant adjustments which are assessed as necessary. This, however, is not foreseen as being significant.

Scottish Government
Housing and Social Justice Directorate
December 2019
Local Government and Communities Committee

3rd Meeting 2020 (Session 5), Wednesday 22 January 2020

Building regulations and fire safety in Scotland: note by the Clerk

Background
1. This paper provides background information on the Committee's evidence session on building regulations and fire safety in Scotland with the Scottish Government. The Committee concluded an inquiry into this matter earlier this session but agreed to maintain a watching brief on it, as policy and practice continues to evolve in the light of lessons learned from the Grenfell Tower tragedy.

2. The evidence session will include consideration of issues relevant to petition 1719, concerning the “stay put” fire safety policy in tall residential buildings, which was referred to the Committee in November 2019. A submission for the session from the lead petitioner is annexed to this paper.

Committee inquiry and aftermath
3. During early 2017, the Local Government and Communities Committee agreed to undertake an inquiry into the building standards verification process. The remit was then extended to focus on the fire safety aspects of building standards, following the Grenfell Tower tragedy. The Committee’s concluding October 2017 report on Building Standards and Fire Safety did not make any specific fire safety-related recommendations, but called for the recently established Ministerial Working Group on Building and Fire Safety to:

- carry out its work as timeously as possible, whilst ensuring a thorough review is completed across the relevant building stock in Scotland; and
- review current building and fire safety regulations in Scotland in light of Grenfell and make any necessary changes to ensure that the risk of any similar tragedy is minimised to the fullest degree that is possible.

4. The Scottish Government responded to the report on 19 December 2017. It also provided the Committee with a number of written updates on building standards between December 2017 and September 2018, which can be accessed via this link. The Committee then took oral evidence from the Minister for Local Government, Housing and Planning and the chairs of three independent panels investigating aspects of building standards and fire safety at its meeting of 5 September 2018.

More recent Scottish Government action
5. Following on from the work of the independent panels, the Scottish Government has continued to develop policy in relation to fire safety. Recent work includes:
• **Strengthening Fire Safety for High Rise Domestic Buildings** (Consultation opened 24 April 2019 and closed on 17 July 2019) This consultation covered aspects of the first five recommendations from the Review of the Fire Safety Regime for High Rise Domestic Buildings in Scotland. The consultation sets out proposals to strengthen:
  
  - Fire safety information for people who live in high rise domestic buildings
  - Fire safety for common areas
  - Guidance on fire safety in existing high-rise domestic buildings, including fire risk assessment

The results of this consultation are available via the above link. It indicates how the Scottish Government intends to take these three matters forward.

• **Building Standards Compliance and Fire Safety** (Consultation opened 4 July 2018 and closed on 26 September 2018) This consultation covered compliance and enforcement, workforce skills (including local authority verifiers, developers and building managers), the fire safety requirements set out in technical handbooks, and the possible establishment of a national hub to assess fire safety engineering designs and whether the requirement to install sprinkler systems should be extended to more property types. The link above sets out next steps arising from the consultation. This included publication of revised Technical Handbooks on 1 October 2019. These include several changes to fire safety guidance, including:
  
  - Insulation and external wall cladding systems to be rated as A1 or A2 where any storey height is above 11m (previously 18m)
  - Guidance clarified on junctions between separating walls and floors and external walls
  - Explanation of external wall cladding expanded to include composite panels, timber panels, spandrel panels and infill panels
  - Standard amended to clarify that spread of fire and smoke in cavities should be inhibited whether or not the fire spread is visible
  - New clause on specified attachments to external walls – fire spread via balconies, solar panels and solar shading.
  - High rise domestic buildings must now have more than one fire escape stair, an evacuation alert system and storey identification signs

**Evidence on 20 November 2019**

6. On 20 November, the Committee held a further session with fire safety experts and representatives of home insurance and surveying. Topics covered included:

- The concept of enhancing professional competency in the construction industry, particularly in relation to the assessment of fire risk in “real life” situations versus adopting a stricter regulatory approach to minimise risk;
- The efficacy of existing tests for fire safety in the construction industry, in particular the British Standard [BS] 8414 test and the pros and cons of “blanket” bans on certain materials;
- Whether and how modifications to buildings that may affect the level of fire risk are monitored, particularly in relation to apartment buildings;
• The reasons behind some apartment buildings being “zero valued” by surveyors because of a perception that they do not fully meet fire safety requirements, and how this can be resolved;
• The importance of having good quality, interlinked smoke and fire alarms in all Scottish households;
• The overall direction of Scottish Government fire safety policy post-Grenfell.

7. The Committee subsequently agreed to invite the Scottish Government to discuss these and other topics, as well as the Scottish Government’s perspective on the parameters and efficacy of a “stay put” policy for taller residential buildings. The Minister for Local Government, Housing and Planning will be accompanied by officials responsible for policy on building standards and fire rescue.

8. Both the Official Report of the 20 November meeting and written evidence associated with the meeting can be found on this link (just over half the way down the page). The Committee has also received a number of submissions from representatives of the insulation and cladding manufacturing industry in the light of evidence taken on 20 November that have been posted on this page.

Next steps
9. The Committee will discuss next steps in relation to building standards and fire safety, and petition 1719, after the public session on 22 January. The Committee is expected to agree to hold this discussion in private, in line with normal practice.
Petition 1719 - Review of fire safety stay-put policy

Re: Committee Meeting 8/01/2020

1. The Grenfell tragedy caused alarm and anxiety, not just in residents but also in those people and agencies responsible for fire safety in high rise buildings. Actions in direct response include the Scottish Government launching a public consultation about fire safety in high rises inviting, in particular, the views of residents; SFRS launching new guidance including a leaflet for residents which no longer claims that high rises are almost fire-proof and Housing Associations upgrading dry risers, installing sprinklers in bin rooms and introducing good housekeeping rules regarding, for instance, the storage of furniture or other items in common areas for any reason. This petition was submitted in February 2019 and became public, May 2019.

2. The stay-put policy has been in operation since 1960s; however, over the last 20 years or so various alterations that include refurbishment and the addition of cladding to external walls have altered the status of high rise buildings. Measures of the policy’s efficiency, when confined to this period, show lives lost in fires in Irvine, 1999; Gorbals, Glasgow, 2009 and in London, Lakanal House, 2009 and Grenfell Tower, 2017.

3. The Scottish Government’s Practical Fire Safety Guidance for Existing High Rise Domestic Buildings, December 2019, states the necessity for smoke detection in escape routes (S30) and also for cladding that is able to resist fire spread (S28). The lack of such smoke detection was referred to in the Petitioner’s Submission, September, 2019, and Professor Torero’s advice that, even if consisting of noncombustible materials, cladding will conduct fire from floor to floor was referred to in Additional Comments, December 2019.

4. There is no suggestion whatsoever anywhere in the petition that the stay-put policy should be stopped: rather it is argued that it should be expanded or extended to include an evacuation strategy (as opposed to the either/or suggestion in SS21–23 of the Practical Guidance referred to above) in recognition that unforeseen or unforeseeable problems may arise leading to the fast spread of fire and smoke and a need for evacuation. Given the errors of Grenfell, it is further argued that this decision should not be left to the discretion or the on-the-spot judgement of any individual. In support of this argument, and for the Committee’s convenience, below is a ‘copied and pasted’ extract of the recommendation from the Grenfell Inquiry. These recommendations are neither interim nor dependent on the outcome of Phase 2.
### Evacuation

There were no plans to evacuate Grenfell Tower available. Sir Martin Moore Bick, chair of the Grenfell Inquiry, recommended:

- The development of national guidelines for carrying out partial or total evacuations of high-rise buildings – including protecting fire access routes and procedures for evacuating people who require assistance
- Fire services develop policies for partial or total evacuation of high rises
- Owner and manager be required to draw up and keep under review evacuation plans, with copies provided to local fire and rescue services and placed in an information box on the premises
- All high-rise buildings be equipped with facilities to enable the sending of an evacuation signal to the whole or a selected part of the building
- Owners and managers be required by law to prepare personal evacuation plans for residents who may struggle to do so personally, with information about them stored in the premise’s information box
- All fire services be equipped with smoke hoods to help evacuate residents down smoke-filled stairs

With respect,

Rachel Gibson, on behalf of tenants Cartcraigs Road, Glasgow

NB. I am not aware of any issues with fire doors.