

From: Eric Hotson, Cabinet Member for Corporate and Democratic Services

Rebecca Spore, Director of Infrastructure

To: The Policy and Resources Cabinet Committee – 16 March 2018

Decision No: N/A

Subject: **Update on Interim Hackitt Review**

Classification: **Unrestricted**

Past Pathway of Paper:

Future Pathway of Paper:

Electoral Division: All

Summary: Following the Grenfell tragedy and the presentation of the updated Sprinkler Policy to the Policy and Resources Committee a request was made to keep them updated on the findings of the Hackitt review. The Hackitt Review Interim report was published in December 2017 and this paper sets out the key findings and how these findings affect the way in which Council manages its buildings.

Recommendations: The Policy and Resources Cabinet Committee is asked to:

- (1) Note the findings of the Hackitt Review Interim Report and how this may affect the way in which the Council manages its own estate.
- (2) Agree that on publication of the final Hackitt Review Report planned for Spring 2018 a further paper making recommendations is presented to the Policy and Resources Cabinet Committee

1. **Executive Summary of the report**

1.1 The independent Review of Building Regulations and Fire Safety has been commissioned by Dame Judith Hackitt with a view to making recommendations that will ensure we have a sufficiently robust regulatory system for the future and to provide further assurance to residents that the complete system is working to ensure the buildings they live in are safe and remain so. It is examining the building and fire safety regulatory system, with a focus on high-rise residential buildings.

1.2 The interim report was published in December 2017 and provided the findings to date and direction of travel for the review, ahead of a final report expected to be submitted in spring 2018.

1.3 The key findings of the report are:

- The current regulatory system for fire safety in high-rise and complex buildings is not fit for purpose. This applies throughout the life cycle of a building, during construction and occupation.
- There are cultural issues in the construction industry and the effectiveness of the regulators.
- Current regulations and guidance are too complex and unclear. This can lead to confusion and misinterpretation in their application to high-rise and complex buildings.
- Clarity of roles and responsibilities is poor, specifically who has responsibility for making key activities happen at different stages of the life cycle.
- The means of assessing and ensuring the competency of key people throughout the system is inadequate. There is often no differentiation in competency requirements for those working on high-rise and complex buildings.
- Compliance, enforcement and sanctions processes are too weak. What is being designed is not what is being built and there is a lack of robust change control.
- The route for residents to escalate concerns is unclear and inadequate.
- The system of product testing, marketing and quality assurance is not clear.

1.4 The report sets out six areas for change. The areas which may be of interest to KCC are summarised below:

1. Regulations and Guidance

- Current regulation and guidance is both complex and unclear.
- The rules for ensuring high-rise and other complex buildings should be more risk-based and proportionate.
- Those responsible (i.e. duty holder/responsible person) for high-risk and complex buildings should be held to account to a higher degree.
- There should be a shift towards greater responsibility for the sector to specify solutions which meet the government's functional standards.
- Regulations and guidance must be simplified and unambiguous.
- The Building Regulations (2010) are clear about the outcomes to be achieved but not about where responsibilities lie.
- There is widespread confusion about what constitutes the regulations and what is guidance.

2. Roles and Responsibilities

- Clarity of roles and responsibilities within the system is poor, with a general lack of clarity around, or statement of, roles and responsibilities throughout the system.
- Even where there are requirements for key activities to take place it is not always clear who has responsibility for making these happen.
- Primary responsibility for ensuring that buildings are fit for purpose must rest with those who commission, design and build the project. Responsibility and

accountability must rest with clearly identifiable senior individuals and not be wholly dispersed through the supply chain.

- Roles and responsibilities across the whole life cycle of a building must be clearer. The approach is driven by aiming for minimum compliance, not ensuring safety for the lifetime of the building.
- A particular issue is there is no requirement for identifiable, named duty holders responsible for ensuring and proving compliance with the Building Regulations.
- 'Responsible persons' under the Regulatory Reform (Fire Safety) Order 2005 are frequently not identified when the building is due to be handed over following construction and therefore people are not aware of their ongoing responsibilities.
- Where regulations or guidance call upon people to consult with others in the system as part of meeting the requirements of the legislation (e.g. multi-occupancy buildings), there is no clear understanding of the need to do that at an appropriate time or to take account of views expressed.

3. Competence

- There is a need to raise levels of competence and establish formal accreditation of those engaged in the fire prevention aspects of the design, construction, inspection and maintenance of high-rise residential and complex buildings.
- This could have organisational development, capacity and capability implications (and in turn financial implications) for local authorities, trading companies, contractors and regulators.

4. Process, Compliance and Enforcement

- Enforcement and sanction measures are poor and do not provide adequate means of compliance assurance, deterrence or redress for non-compliance.
- There is deviation from what is originally designed to what is actually built, without clear and consistent requirements to seek authorisation or review, or to document changes made.
- The current trend for 'design and build' contracts (where a main contractor is appointed to design and build the project rather than the client appointing separate designers and contractors) is identified as particularly problematic in facilitating evolutionary design, which fails to be properly documented or reviewed.
- There is no requirement in the Building Regulations for existing buildings to be brought up to the latest fire safety standards, as long as during any refurbishment the existing provisions are not made worse.
- Across the life cycle of a complex and high-risk building, the different regulations that apply can overlap, and have varying approaches to responsibility and demonstrating compliance.
- A number of key control stages of the process are not being followed as intended, particularly the handover of fire safety information and the issuing of Completion Certificates.
- The information flow and documented evidence provided by developers to building control bodies does not provide an adequate public record to ensure safety throughout the life cycle.
- Information provided to residents of complex and high-risk buildings on the key fire safety measures, their importance and residents' responsibilities is

highly variable and too often non-existent. It will be interesting to see whether the full report makes a distinction for complex buildings between residents and service users/occupiers that 'use the building'.

- Once a building is occupied there is a requirement for a fire risk assessment to be carried out regularly by a 'responsible person', but no requirement for this to be reported to a regulator or for this to be shared with residents.
- There needs to be a golden thread for high-rise residential and complex buildings so that the original design intent, and any subsequent changes or refurbishment, are recorded and properly reviewed, along with regular reviews of overall building integrity.
- There is a need for stronger and more effective enforcement activity, backed up with sufficiently powerful sanctions for those who do not follow the rules.

5. Residents' voice and raising concerns

- Residents need to be reassured that an effective system is in place to maintain their safety.
- There must be a clear, quick and effective route for residents' concerns to be addressed.

6. Quality assurance and products

- Products must be properly tested and certified and there is a need to ensure oversight of the quality of installation work.
- Marketing of products must be clear and easy to interpret.

1.4 In addition the report highlights there needs to be a greater alignment and the consistent use of terms within the guidance and legislation.

2. Phase 2 of the Review Future Direction of Travel

2.1 The interim report sets out the 'direction of travel' for key areas for recommendations in the final report, including:

- **A risk based approach** - Defining a revised regulatory system which will be simpler, clearer and deliver better outcomes. This needs to allow innovation in building design and construction and not introduce disproportionate delays or cost into building processes. The review notes that any additional time spent at the front end of designing and specifying a building is likely to yield significant benefits in time, cost and safety in construction and throughout the building life cycle. The revised system must be risk-based and proportionate and not burden low-risk, small-scale or simple projects with requirements which are intended for complex and high-risk buildings where both the risk and consequences of catastrophic events are considerably higher. There will be a focus on the cultural shift across all parts of the system within the construction, operation and maintenance of complex and high-risk buildings. In the case of complex and high-risk buildings with complex ownership and occupancy models, a more rigorous risk-based process must be put in place to ensure that building integrity is maintained throughout the life cycle. It is important that the construction and maintenance of these buildings is treated proportionately and that those responsible for such buildings are held to account to a higher degree.

- **Commissioning responsibilities** - Primary responsibility for ensuring that buildings are built to the correct standards and are fit for purpose must rest with those who commission the work and those who design and build the project. Those commissioning must ensure that those they commission to do the work have the right levels of competence and are appropriately supervised. Responsibilities must not be dispersed through the commissioning chain. Even in an environment where there are multiple layers of sub-contracting there must be a clear, responsible duty holder who is held to account for the performance or non-performance of all of those to whom sub-contracts are let at all stages in the life of a building. Where there is failure to comply, there must be a more effective means of ensuring not only that the deficiencies are put right but that those who were responsible for compliance with the standards are held accountable for their failure. After completion and handover of a building there must be clear responsibility assigned to a known person or persons for ensuring that the building remains fit for purpose throughout its life cycle. Where and when ownership changes, responsibilities must be formally handed over. The current interaction of different regulatory regimes leads to a complex system with different bodies responsible for enforcement and a varied approach to assurance and demonstrating compliance. The whole process needs to be streamlined and made consistent. There is potential for Building Information Modelling (BIM) to transfer the documentation process onto a digital platform.
- **Engaging and consulting partners** - The right people need to be engaged and consulted at the earliest stages of complex projects and that their views are taken into account at the design stage. This is particularly important in relation to fire safety. Fire and rescue service advice should be fully taken into account and their input and support should be secured at the earliest stage possible.
- **Monitoring and assessment responsibilities** - Once a complex and high-risk building is occupied and in use, there must be a clearly identified responsible person who continues to monitor the condition of the building and is responsible for all changes and maintenance work carried out within it. It must be clear to occupants and anyone who works in the building who that responsible person is, and they must be held to account. Future modification and upgrade to complex and high-risk buildings must be subject to the same rigorous processes as during original construction and must be undertaken with reference to the original design criteria. Changes must be formally reviewed by competent professionals, documented after completion and formally handed over. Complex and high-risk buildings must also be subject to regular and thorough reviews of their overall integrity, even if they are not subject to major change. The integrity of such buildings can be compromised by a series of minor changes which lead to a cumulative degradation of protection. It is envisaged that these reviews would be the responsibility of the building owner but must be reported to the regulator and

accessible information made available to residents. The current Fire Safety Order states that fire risk assessments must be carried out 'regularly'. The report goes further than this and recommends that the responsible person ensures these are undertaken at least annually and when any significant alterations are made to the building. These risk assessments should be shared in an accessible way with the residents and notified to the fire and rescue service. There is a responsibility to give due consideration to what it is reasonable and practicable to do to upgrade and improve the fire safety of existing facilities throughout their lifespan, not merely to ensure that they do not deteriorate beyond how they were originally designed and built.

- **Retrofitting fire protection measures** - Rather than one fire protection measure being retrofitted or amended in existing buildings (e.g. extra staircases, smoke ventilation or sprinkler systems) being prescribed over another, it should be for building owners and landlords, with the right expert advice and the involvement of residents, to demonstrate that appropriate risk mitigation measures are in place.
- **Financial implications** - The cost of achieving compliance must be significantly less than the sanctions which may be imposed on those who do not follow the rules and fail to achieve the standards set, in order to create the right incentive to comply and a deterrent to seeking to circumnavigate requirements.

3. Impact on KCC

3.1 At this time, the Hackitt review has not at this time changed our statutory liabilities and KCC through its activities ensures that all relevant legislative requirements are met.

3.2 KCC has 2 high rise buildings within its portfolio which are leased to housing providers. As the Hackitt review reaches its conclusion KCC will review its arrangements to ensure that it considers and takes into account the review in respect of these buildings.

3.3 The Hackitt review and its findings are likely however to have implications far beyond those buildings which are classified as high rise or complex buildings and brings into sharp focus KCC's responsibilities as a duty holder and a responsible party in both its management of its assets but also through its commissioning activity which may have additional resource and capacity requirements.

3.4 It will be increasingly important that the Council has a clear view across its property based activities and can evidence that it is appropriately discharging its duties. In order to ensure that KCC are in the best position to respond we are progressing the final stages of the implementation of the corporate landlord model to ensure that the council has a single view of its asset holdings. It is likely when combined with the emerging findings of the Hackitt review there will be areas with the Council where further assurance is required and KCC may need to further strengthen its approach. This will inevitably place greater strain on existing resources and budgets which may prove to be insufficient. As the Hackitt review reaches its conclusion alongside the Council's own assurance work KCC will consider the outcomes and report further on its implications for the Council.

4. Recommendation(s)

Recommendations:

The Policy and Resources Cabinet Committee is asked to:

- (1) Note the findings of the Hackitt Review Interim Report and how this may affect the way in which the Council manages its own estate.
- (2) Agree that on publication of the final Hackitt Review Report planned for Spring 2018 a further paper making recommendations is presented to the Policy and Resources Cabinet Committee

11. Background Documents

None

12. Contact details

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