

Business and Regulatory Impact Assessment

**Strengthening Fire Safety in
Domestic High Rise Property**

December 2019

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1. Purpose and intended effect

1.1 Background

Following the fire at Grenfell Tower in 2017, the Scottish Government immediately established a Ministerial Working Group (MWG) to review building and fire safety regulatory frameworks, and any other relevant matters. The Review of the Fire Safety Regime in Scotland for High Rise Domestic Property (the Review) was one of three MWG Reviews. This Review found there were no gaps in Scottish legislation but made 5 recommendations for improvements to strengthen fire safety for those who live in high rise domestic properties in Scotland:

- 1) Specific fire safety guidance aimed at all residents of high rise domestic buildings.
- 2) Introduction of Scottish Guidance concerning 'Fire safety in purpose-built blocks of flats'.
- 3) Introduction of Scottish guidance concerning Fire Risk Assessments.
- 4) A consistent position regarding the storage, removal and enforced prohibition of combustible materials in common areas to be devised and agreed by all relevant stakeholders (including SFRS and Local Authorities).
- 5) A fire safety campaign relative to common areas.

These are the short to medium term actions identified to improve fire safety. The implementation of all the recommendations are expected to be completed early 2020. Consideration of longer term solutions will continue as these actions are implemented and monitored.

1.2 Aims and Objectives

The aim is to strengthen fire safety in high rise domestic buildings, to prevent fires and minimise the impact of fires that happen. The three key objectives are:

- i. To develop Fire Safety Information for people who live in high rise domestic buildings to improve knowledge, understanding and responsibilities for fire safety and positively influence behaviour. It is not new information but will clarify and refresh and improve accessibility of existing information.
- ii. To ensure that those responsible for the safety of high rise domestic buildings are aware of the best action to take by providing consistent, easily accessible, single source of guidance, covering general fire safety and fire risk assessments, aimed at them.
- iii. To improve fire safety by supporting action to ensure common areas are kept clear of items that are a fire risk or can block access/egress to a building.

1.3 Rationale for Government intervention

These improvements were identified by the Review of the Scottish Fire Safety Regime for Domestic High Rise Property and agreed by the Ministerial Working Group.

1.4 National Outcome

This will contribute to the Scottish Government National Outcome:

We live in communities that are inclusive, empowered, resilient and safe

It also contributes to achieving the Justice Vision and priority:

We will enable our communities to be safe and supportive, where individuals exercise their rights and responsibilities

2. Consultation

2.1 Within Government and External Stakeholders

This work was initiated and agreed by the Ministerial Working Group on Building and Fire Safety.

2.2 Ministerial Working Group

Name
Aileen Campbell, Cabinet Secretary for Communities and Local Government (Chair)
Kevin Stewart, Minister for Local Government, Housing and Planning
Ash Denham, Minister for Community Safety
Scottish Fire and Rescue Service
HM fire Service Inspectorate
Scottish Government officials

There was input to the Review by an Advisory Group, a Review Group and a Tenants and Residents Panel

2.3 Fire Safety Regime Review: Advisory Group

Organisation
Scottish Government Safer Communities Division
Scottish Government Better Homes Division
Scottish Federation of Housing Associations
COSLA
Association of Local Authority Chief Housing Officers
Scottish Fire and Rescue Service
Chartered Institute of Housing
Property Managers Association Scotland
Glasgow and West of Scotland Forum of Housing
New Gorbals Housing Association
Fire Brigades Union
Wheatley Group
Society of Chief Officers of Trading Standards in Scotland
Scottish Government Building and Fire Safety Coordination Team

Scottish Government Building Standards Division
Scottish Government Legal Division

2.4 Fire Safety Regime Review: Review Team

Department
Scottish Government Fire and Rescue Unit
Scottish Government Better Homes Division
Scottish Fire and Rescue Service
Her Majesty's Fire Service Inspectorate
Scottish Government Building and Fire Safety Coordination Team
Scottish Government Building Standards Division
Scottish Government Legal Division

2.5 Tenants and Residents Panel

Council Area	Tenure
Clackmannanshire	Owner
Inverclyde (Riverclyde Homes)	Tenant
South Lanarkshire	Owner
Aberdeen	Tenant
Renfrewshire	Tenant
Fife	Tenant
Falkirk	Tenant
Aberdeen	Owner
Glasgow (GHA)	Tenant
North Lanarkshire	Owner
Clackmannanshire	Owner
Inverclyde (Riverclyde Homes)	Tenant
South Lanarkshire	Owner
Aberdeen	Tenant
Renfrewshire	Tenant
Fife	Tenant

3. Public Consultation

A public consultation on Recommendations 1, 2, 3 and 5 was held April – September 2019. The consultation included a question specifically requesting information and views on any business impact the Fire Safety in Existing High Rise Domestic Buildings guidance may have.

Seventy people responded to the consultation. Exactly half the respondents were individuals and half were from organisations. Organisations that responded included:

- Individuals renting properties
- Local Authorities
- Individual owner occupiers

- Tenants and residents' associations/networks
- Housing groups
- Fire safety/protection companies
- Insurance companies

Three engagement events were held. At these events residents of high rise and those responsible for fire safety in high rise domestic buildings shared their views and discussed the best methods to deliver: fire safety information to residents; the campaign in relation to combustible materials in common areas; and the technical guidance provided for those responsible for fire safety in high rise domestic buildings. Members of the Scottish Fire and Rescue Service (SFRS) also participated.

Potential Impacts on Business noted by respondents to the consultation

The majority of organisations' response was that the measures set out within the 'Fire Safety in existing High Rise Domestic Buildings' Guidance, would not negatively impact any specific business.

4. Business

The main impact will be on local authorities, then housing associations and private owners. The Scottish Federation of Housing Associations and Glasgow and West of Scotland Forum of Housing Associations represent member associations. They have been involved in the Advisory Group, Common Areas Short Life Working Group and public consultation.

Private Factor companies that represent owner occupiers and private renters, were on the Advisory Group and engaged with the SLWG on Combustibles in Common Areas.

5. Options

5.1 Objective 1

To develop Fire Safety Information for people who live in high rise domestic buildings to make sure they are aware of their personal responsibilities and make informed decision on fire safety. This is not new information but will clarify and refresh and improve accessibility of existing SFRS information.

Option 1; Do nothing

Do nothing was not an option since these are actions to strengthen fire safety identified and agreed by the Ministerial Working Group in response to the Grenfell tower fire.

Benefits: None

Costs: None

Option 2: Improve signposting to existing information

SFRS currently produce and provide information on fire safety in domestic situations, including high rise. Engagement with residents during the engagement events suggests that the access and design of this information could be improved, especially to reach people who have not seen/used currently provided information.

Benefits: Some, existing information provided to residents in high rise.

Costs: Financial cost low as there is already existing literature. Minimal change in people's fire safety knowledge and behaviour.

Option 3 - Develop and provide fire safety information for those who live in high rise domestic buildings

This information will provide those who live in domestic high rise domestic buildings accessible and accurate fire safety information. This will increase likelihood of improved fire safety.

Benefits: Will improve fire safety with clear accessible messaging and reach those not currently aware of fire safety information.

Costs: Minimal to residents. Most of the advice is behavioural e.g. not leaving cooking unattended and has no cost.

5.2 Objective 2

To ensure that those responsible for the safety of high rise domestic buildings are aware of the best action to take by providing consistent, easily accessible, single source of guidance, covering general fire safety and fire risk assessments, aimed at them.

Option 1; Do nothing

Do nothing was not an option since these are actions to strengthen fire safety identified and agreed by the Ministerial Working Group in response to the Grenfell tower fire.

Benefits: None

Costs: None

Option 2: Introduce statutory requirements for Fire Safety in High Rise

A standalone Bill can take at least 2 years from inception to being passed by Parliament.

Alternatively, a provision could be added to an existing Bill but there is not an appropriate one available. In either case further consultation would be needed on making that change to an existing bill in this way.

Benefits: Stronger requirement to comply and consistency across and between housing sectors.

Costs: See below, although minimal until legislation is in place.

Option 3 – Introduce Guidance aimed at those responsible for safety in high rise domestic buildings

To ensure that those responsible for the safety of high rise domestic buildings are aware of the best action to take by bringing together consistent, easily accessible Fire Safety Guidance, including Fire Risk Assessment template, for them.

Benefits: Provide clear direction and straightforward guidance to support steps to consistent fire safety.

Costs: This is not a new requirement for fire safety in domestic high rises. There may be buildings where the Guidance and Fire Risk Assessment (or equivalent) is not currently or fully implemented. This expansion and improvement to support fire safety in high rise is a key policy objective. There may be costs for those responsible for buildings e.g. to commission an external Fire Risk Assessment and act on its findings. As far as can be established the costs

should not be significant. It is also preferable and financially effective to prevent and reduce impact of fires. The voluntary nature of the guidance gives the chance to prioritise and plan any improvements and raise income over a period of time.

5.3 Objective 3

To improve fire safety by ensuring common areas that are clear of items that are a fire risk or can block access/egress to a building.

Attempts were made to ascertain the scale of the issue with evidence but both COSLA and the SFRS were unable to provide this as the data has not historically been collected. Anecdotal evidence suggests that this issue is more prevalent in tenement buildings rather than high rise.

Option 1 Do nothing

Do nothing will mean common areas continue to have potentially dangerous items left in them and prevent access by SFRS and safe evacuation.

Benefits: None
Costs: None

Option 2 - SFRS to utilise the powers available under section 93 of the Civic Government Act.
SFRS are well placed to assess the risk of items left in common areas. Ministers preference was to avoid using SFRS resources and firefighter time to remove items.

Benefits: SFRS have the knowledge and understanding to undertake this work.

Costs: More vehicles and storage space would be needed to uplift and keep materials. This work takes up a lot of valuable firefighter time which would be better used on wider preventative programmes of work as well as other core duties, including putting out fires.

Option 3 - Partnership Working between relevant stakeholders (including SFRS) and a public campaign.

This approach utilises the public services assets already in place, which are already equipped for uplifting and disposing of items.

Benefits: Working this way will ensure that firefighters' time is more appropriately spent on core duties such as prevention, responding to emergencies and call outs, rather than uplifting and disposing of combustible items, while at the same time working to address the issue of combustible items in common areas. The fire safety campaign relative to common areas is to support behaviour change and prevent items begin left.

Costs: The cost of uplifting materials on those responsible for high rise domestic buildings will need to be considered. Through the campaign, that will be the minimal cost of some materials and publicity, it should be possible to reduce the number of items needing to be uplifted.

Option 4 – Amend section 93 of the CGA legislation.

Before the CGA legislation can be amended, it would first require a change to primary legislation in designating a responsible “duty holder” for every high rise domestic building. This would be a decision for Scottish Ministers to take forward as part of the legislative programme, and would require detailed public consultation and parliamentary scrutiny.

Following this, primary legislation would be required to amend section 93. This could be in the form of a new standalone Bill or included in an existing Bill (if it were within the scope of that Bill). With regard to using a standalone Bill, it may not be considered best use of Parliament’s time to consider a standalone Bill that only made provision for combustibles in common property. Such a provision would therefore likely have to be part of wider fire safety or local government Bill, which is something that could take a number of months to develop and may not even be possible for a number of years.

A standalone Bill can take at least 2 years from inception to being passed by Parliament. The timescales as regards putting a provision into an existing Bill will vary depending on the point that Bill has reached and its scope. However, further consultation would be needed on making that change to an existing bill in this way.

Benefits: Legislation would provide an enforcing body the statutory power to serve notices and remove items.

Costs: Potential costs associated with work to amend legislation and ensure there are appropriate processes in place to ensure notices are served and items are lifted appropriately. This work would take several years to implement due to the need for primary legislation designating a named duty holder to first be in place.

There may be additional costs when establishing and operating under new legislation that would be considered in the pre-legislative process.

6. Scottish Firms Impact Test

The nature of the implementation of the recommendations is unlikely to impact on Scottish firms. The following consumer assessment questions have been considered and it is felt unlikely that any new guidance will have a significant impact on Scottish firms:

- Will it have an impact on the competitiveness of Scottish companies within the UK, or elsewhere in Europe or the rest of the world?
- How many businesses and what sectors is it likely to impact on?
- What is the likely cost or benefit to business?

Our assessment is this will not impact on competitiveness

The businesses and sectors this will have an effect on include: private landlords, housing associations, local authorities, factors and private owners. It is important to note that there are no new requirements.

Costs are likely to not be excessive as the Guidance is practice that should be in place already. This view was largely reflected by responses to the consultation which asked respondents to consider what impacts implementation of the guidance might have.

There may be some costs associated with carrying out fire risk assessments for the common areas of high rise domestic buildings, for example where they require the expertise of a 3rd party.

The benefits are strengthened fire safety in high rise domestic buildings, which will contribute to limiting or a reduction in fires and therefore loss of life and building damage.

7. Competition Assessment

The nature of the implementation of the recommendations is unlikely to impact on competitiveness of Scottish companies within the UK or elsewhere in Europe. The following competition assessment questions have been considered and it is felt unlikely that any new guidance will have a significant impact on competition:

- Will the guidance directly or indirectly limit the number or range of suppliers?
- Will the guidance limit the ability of supplier to compete?
- Will the guidance limit suppliers' incentive to compete vigorously?
- Will the guidance limit the choices and information available to consumers?

Our view is that the answer is no to each of these tests. Where Fire Safety equipment, and/or Fire Risk Assessments are required to be purchased, there is potential for businesses already in this market to benefit.

8. Consumer Assessment

The nature of the implementation of the recommendations is unlikely to impact on consumers within the UK or elsewhere in Europe. The following consumer assessment questions have been considered and it is felt unlikely that any new guidance will have a significant impact on consumers:

- Does the guidance affect the quality, availability or price of any goods or services in a market?
- Does the guidance affect the essential services market, such as energy or water?
- Does the guidance involve storage or increased use of consumer data?
- Does the guidance increase opportunities for unscrupulous suppliers to target consumers?
- Does the guidance impact the information available to consumers on either goods or services, or their rights in relation to these?
- Does the guidance affect routes for consumers to seek advice or raise complaints on consumer issues?

Our view is that strengthening fire safety in domestic high rise buildings is service improvement for consumers (point 1). Given the changes are based on current fire safety law and practice, for the remainder of the tests the answer is no.

9. Test run of business forms

It is unlikely that the implementation of the guidance will result in any new business forms.

10. Digital Impact Test

The nature of the implementation of the recommendations is unlikely to have digital impacts within the UK or elsewhere in Europe. The following consumer assessment questions have been considered and it is felt unlikely that new guidance will have a significant digital impact:

- Does the guidance take account of changing digital technologies and markets?
- Will the guidance be applicable in a digital/online context?
- Is there a possibility the guidance could be circumvented by digital / online transactions?
- Alternatively will the guidance **only** be applicable in a digital context and therefore may have an adverse impact on traditional or offline businesses?
- If the guidance can be applied in an offline **and** online environment will this in itself have any adverse impact on incumbent operators?

Our view is that the answer is no to each of these tests

11. Legal Aid Impact Test

It is considered highly unlikely that the implementation of the recommendations will have any effect on legal aid as the guidance produced is purely on a best practice basis and has no change to any legislation.

12. Enforcement, sanctions and monitoring

Recommendations 1 – 3 and 5 are all to produce guidance. Some of this guidance may refer to existing legislation that responsible parties must adhere to, and there should already be the appropriate enforcement, sanctions and monitoring in place for this where appropriate. Outside of this, the guidance is best practice only and does not introduce new legally required actions. This means there is no statutory requirement for adherence and therefore there cannot be any measures to enforce, sanction or monitor use of any guidance produced.

Recommendation 4 does impose certain sanctions and a requirement for enforcement, but this is already in place through the CGA and no production of new guidance will change the associated sanctions, only their issuing.

Monitoring is being developed to understand the inputs and impact.

13. Implementation and delivery plan

It is envisaged that Recommendations 1, 2, 3 and 4 will be implemented by the end of 2019. The optimum time for implementation of Recommendation 5 is early 2020.

An Implementation Plan is being produced and over seen by an Implementation Group. This reports to the MWG. This is informed by the Consultation and engagement events findings.

There has been time set aside for post consultation review in the timeline that we are currently working towards and again this may affect some changes to the above. There may also be updates depending on the assessment of the Recommendations from the Grenfell Inquiry.

14. Post-implementation review

The MWG are continuing to meet twice yearly to monitor implementation and updates will be provided to it. The minutes from the MWG are published on the Scottish Government website <https://www.gov.scot/groups/ministerial-working-group-building-and-fire-safety/>.

There will be a review should there be consideration for the need for legislation.

15. Summary and recommendation

For recommendations 1 – 3 and 5 the assessment is minimal impact on business.

Recommendation 4 is an exception as there has to be consideration given to cost for the removal of combustible materials from common areas. The indications currently are that this is not widespread in high rise domestic buildings.

For recommendation 4, the chosen method is Option 3 'Partnership working between relevant stakeholders (including SFRS)'.

A Framework for the storage, removal and enforced prohibition of combustible materials in common areas has been developed. Relevant stakeholders including SFRS, Local Authorities and Landlord and Housing Associations with responsibility for high rise domestic buildings have agreed to trial the Framework locally. This will help to ensure that firefighter's time is more appropriately spent on core duties such as prevention and responding to emergencies and call outs, rather than uplifting and disposing of combustible items, while at the same time working to address the issue of combustible items in common areas.

15.1 Summary Costs and Benefits

Overall this policy is supporting strengthening of fire safety in high rise but not introducing new requirements for fire safety in domestic high rise buildings. There may be buildings where the Guidance and Fire Risk Assessment (or equivalent) is not currently or fully implemented and expansion and improvement may incur costs, that will support fire safety in high rise.

16. Declaration and publication

I have read the Business and Regulatory Impact Assessment and I am satisfied that:

- (a) it represents a fair and reasonable view of the expected costs, benefits and impact of the policy, and;
- (b) that the benefits justify the costs. I am satisfied that business impact has been assessed with the support of businesses in Scotland.

Signed:

A handwritten signature in black ink, appearing to read 'Ash Denham', written in a cursive style.

Date: November 2019

**Ash Denham MSP
Minister for Community Safety**

Scottish Government Contact point:



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