

Housing, Communities and Local Government Committee
The House of Commons
London SW1A 0AA

11th July 2018

Dear Housing, Communities and Local Government Committee

I am writing to you to express concern regarding a comment made by the Minister at the Committee's Oral Evidence session of 2 July, in relation to the Government's proposals for banning the use of combustible materials on the external walls of high-rise residential buildings. When questioned by Committee Members about the proposed revision of Building Regulations to ban the use of combustible cladding and its limitation to new buildings only, the Minister responded that in the case of existing buildings and those currently under construction, building owners must put in place other fire safety arrangements to minimise the risk to occupants.

I am sure that it is not lost on you, that this position will have very significant implications for occupants of such buildings. The question that immediately presents itself is of course, where existing buildings or those currently under construction are clad in material that isn't either non-combustible or of limited combustibility, what implications this will have for the viability of the 'stay-put' policy? It now seems clear that one of the fundamental failures that contributed to the scale of the Grenfell Tower tragedy, was the adherence to the 'stay-put' policy, even after it became evidently clear that it had been compromised by the combustibility of the material with which the building had been clad.

As you will be aware, the London Fire and Rescue Service has reportedly removed the 'stay-put' policy for 101 high-rise residential blocks, as the material in their cladding renders the policy unviable. Where this is the case, a much greater onus will inevitably be placed on the need for additional means of fire protection and suppression and the introduction of emergency evacuation plans for all residents. For those with mobility needs or who require additional assistance, Personal Emergency Evacuation Plans (PEEPS) will be of particular importance.

It seems to me therefore, that as a matter of urgency the Government must undertake a comprehensive impact assessment on its proposed policy not to apply the ban retrospectively, the implications for the 'stay-put' policy and clearly set out the measures it expects from landlords/responsible persons of existing buildings clad in anything other than non-combustible material or that of limited combustibility, to mitigate any risk to occupants, particularly those with mobility impairments and additional needs.

Supporting people with spinal injury

We would very much welcome the Select Committee's support in pursuing this question.

With warm regards

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Supporting people with spinal injury

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Republic of Ireland Registered Charity Number 20150181. Registered Company Number 3744357



Aspire

Supporting people with spinal injury

Aspire

Every 8 hours someone in the UK is paralysed by a Spinal Cord Injury (SCI). Aspire is a national disability charity that provides practical help to those affected. We provide a range of programmes designed to enable people with SCI to lead independent lives.

Issues Paper - Fire Safety of disabled people in high rise residential buildings.

Produced by Andy Shipley.

Introduction

Whilst we don't know exactly how many households affected by the Grenfell Tower fire included disabled people, there have been a number of accounts of disabled people caught up in the tragic events of the night of 14 June 2017: One is that of Flora Neda, a disabled woman who was carried down 24 floors by her son. <https://www.unilad.co.uk/news/hero-son-carried-disabled-mother-down-24-flights-of-stairs-to-escape-grenfell-fire/>

In another account, Nazanin Aglhani tells how her mother Sakineh Afrasehabi, who was "registered disabled", would have had no chance escaping from her 18th floor home. Mrs Aglhani describes repeated attempts to have her mother rehoused in appropriate accommodation, adding, "She was put in a death trap, they should have thought of how she'd escape in a fire." <http://www.bbc.co.uk/news/uk-40322596>

Then there's the story of the "man in the window", Elpidio Bonafacio, a visually impaired pensioner, who was seen waving a white jumper from his 11th floor flat. <http://www.dailymail.co.uk/news/article-4620864/Grenfell-man-window-said-goodbye.html>

The Survey of English Housing indicates that disabled people are twice as likely to live in social housing as those without disabilities. For disabled people in particular, the viability of any measures put in place for their protection heavily depend upon critical systems and building elements working. Unlike non-disabled people, who have some degree of agency to take alternative action when these systems and building elements fail, many disabled people will be unable to make their own escape and will therefore be disproportionately more likely to succumb to the fire.

It is the purpose of this issues paper and Aspire's work in this area, to highlight the questions that must be considered in order to ensure that the fire safety of disabled people is being adequately addressed, within the terms and execution of any ongoing investigations, consequent legislative and regulatory reform and the implementation of all relevant legal obligations already in force.

Summary of key points and recommendations

- 1 Urgent development and issuing of a mandatory landlords audit tool for assessing current position of fire safety for disabled residents. There is an alarming degree of inconsistency and contradiction between key guidance documents relating to the design and management of residential buildings on the issue of fire safety of disabled residents. When combined with the over-reliance upon the 'stay put' policy, disabled residents of HRRBs are currently likely to be exposed to a disproportionately greater level of risk than non-disabled residents. We are therefore calling on government to act as a matter of urgency, to instruct Landlords of HRRBs and ideally all residential blocks, to undertake comprehensive fire risk assessments of all occupants and implement whatever measures necessary to ensure the protection and safe escape of any that may require additional assistance.
- 2 Production of definitive and authoritative guidance on fire safety for disabled people in residential buildings. The inconsistency and contradictory nature of the existing guidance means that currently, a black-hole exists in relation to clear, robust and definitive guidance on the protection and escape for disabled residents. We are calling on government to immediately commission the British standards Institution, to begin work to compile a new British standard on the fire safety of disabled residents in HRRBs.
- 3 The expeditious enactment of *Section 36* of the Equality Act 2010, to require landlords to make alterations to common areas of residential buildings to meet the access and emergency egress needs of disabled occupants. Section 36 of the Equality Act (not enacted) places a duty on landlords to make adjustments to common parts of residential buildings for existing disabled residents who require them. In some cases, the provision of such alterations could significantly improve a disabled resident's ability to make an escape in the case of a fire. We are therefore calling on government to enact Section 36 of the Equality Act, as a matter of urgency.

The Independent review of fire safety and building regulations.

Aspire's submission to the independent review set out our concerns that it should exhaustively interrogate the current scope, specification, application and enforcement of fire Safety and Building Regulations relating to the protection and escape of disabled people, as well as their relationship with relevant provisions of the Equality Act 2010. Whilst Dame Judith Hackitt's final report focusses upon the overall systemic failure of the regulatory framework, it will be vital for the subsequent work of developing the overarching legislation and underpinning regulation and guidance, to address critical weaknesses regarding the design, construction, refurbishment, management and risk mitigation for the protection and means of escape of disabled occupants of High rise residential buildings (HRRBs) in particular, and buildings in general, as a matter of priority.

The Equality Act 2010.

The Equality Act 2010 imposes duties upon those responsible for the letting of residential premises not to discriminate in the terms of that letting, against any person on the basis of a

protected characteristic, which of course includes disability. *Section 35* of The Act requires that “A Manager” of premises must not discriminate against a person who occupies premises in the way in which s/he allows the use of any benefit or facility.

The Public Sector Equality Duty (PSED)

The PSED places further obligations upon local authority landlords and social housing providers and their agents/contractors, to take action to ensure policies and services do not discriminate against protected groups, which will extend to the allocation and maintenance of housing stock.

The PSED also of course extends to the Fire Service and all building control inspectors, whether employed by a local authority or in the private sector. For this reason, any strategies introduced relating to fire safety of residential buildings, must make specific reference to the Equality Act 2010 and ensure the protection and escape of disabled people. In this light, regulations and guidance must be reviewed and revised on the bases that there is an expectation that disabled people will be present in all types of buildings including general needs residential blocks.

Section 36 of the Equality Act

Section 36 of the Equality Act introduced a new requirement for “*disability related alterations to the common parts of let residential premises*”. As yet however, these provisions haven’t been brought into force. It is arguable that as Grenfell Tower was constructed long before the introduction of the London Plan and current building regulations regarding accessibility for disabled people, the impact of *Section 36* on accessibility and emergency egress for its disabled occupants, may have proved significant. It may not prove possible to determine what effect, if any, these provisions would have had on the ability of disabled Grenfell occupants to evacuate the building, had the building been altered to meet their needs. Nevertheless, the case remains that enactment of this duty would dramatically improve the access and emergency egress afforded to hundreds of thousands of disabled people in residential buildings. We would therefore urge the government to enact *Section 36* as a matter of urgency, to enable the common parts of existing buildings to be altered to meet the access and emergency egress needs of their disabled occupants.

The current regulatory framework

The Building Regulations and Fire Safety Order make a number of recommendations regarding the protection and means of escape for disabled people.

Part B of the Building Regulations

The General Introduction to Part B of the Building Regulations states the following:

“The fire safety aspects of the Building Regulations are made for securing reasonable standards of health and safety for persons in and about buildings. This is intended to include all people, including people with disabilities. The provisions set out in this approved document are considered to be a reasonable standard for most buildings. However, there may be some people whose specific needs are not addressed, in some situations; additional measures may be needed to accommodate these needs. This should be done on a case by case basis.”

Regulatory Reform (The Fire Safety Order) 2005

The Fire Safety Order 2005, introduced duties in relation to fire safety in the common areas of blocks of flats. The duty is placed upon the “*responsible person*,” who is required to undertake a fire risk assessment and take specific action to minimise the risk of fire in common areas. The Fire Safety Order guidance 9281, relating to the undertaking of fire risk assessment of sleeping accommodation encompasses the following situations:

- the common areas of houses in multiple occupation
- the common areas of flats and maisonettes
- the common areas of sheltered accommodation where care is not provided
- bed and breakfasts, guest houses, holiday chalets, holiday flat complexes, camping, caravan and holiday parks (other than privately owned individual units)
- areas in work places where staff ‘sleeping in’ is a condition of the employment or a business requirement as in licensed premises or hotels

the guidance states that “*particular attention should be paid to those at special risk, such as disabled people, those you know have special needs and children.*” The guidance continues; “*In evaluating the risk to people with disabilities you may need to discuss their individual needs with them.*”

Guidance document 9281 also goes on to make the following advice in relation to the action that should be taken in respect of the evacuation of disabled people: “The means of escape you provide must be suitable for the evacuation of everyone likely to be in your premises. This may require additional planning and allocation of staff roles – with appropriate training.”

“Use of these facilities will need to be linked to effective management arrangements as part of your emergency plan. The plan should not rely on fire and rescue service involvement for it to be effective.”

LGA guidance: Fire safety in purpose built blocks of flats.

In a written Parliamentary Question submitted on 25 October, Andrew Gwynne MP asked the Secretary of State for Communities and Local Government, “what guidance his Department publishes for local authorities and housing associations on providing a safe means of exit for disabled residents in the event of an emergency.” The then Housing Minister Alok Sharma replied on 01 November 2017 stating: “In 2010 the Department funded the Local Government Association to develop

guidance on fire safety in purpose built blocks of flats, which includes specific advice on ensuring the safety of disabled people and means of escape in the event of a fire.”

Unfortunately, our analysis of this document reveals significant ambiguity and inconsistency with FSO guidance 9281 regarding the fire safety of disabled occupants.

The LGA guidance states in 6.12; ... *“it is reasonable to expect that the occupants of a ‘general needs’ block of flats will reflect the diverse range of physical and mental capabilities of the general population as a whole. Although inclusive design is fundamental to new ‘general needs’ purpose-built blocks, the Building Regulations do not stipulate additional fire safety measures”*

This is incorrect in relation to residential blocks above 18m and measures such as refuges and evacuation lifts are of course included in Approved Document B of the Building regulations for such buildings.

Section B1 of Approved Document B volume 2 which relates to buildings other than dwellings and residential buildings above 18m, sets out the following criteria for means of escape:

- a) That there should be alternative means of escape from most situations and;
- b) Where direct escape to a place of safety is not possible, it should be possible to reach a place of relative safety, such as a protected stairway, which is on a route to an exit, within a reasonable travel distance.

It then makes the following specific recommendations in relation to the means of escape for disabled people:

“Some people, for example those who use wheelchairs, may not be able to use stairways without assistance. For them, evacuation involving the use of refuges on escape routes and either, assistance down, or up stairways, or the use of suitable lifts will be necessary.”

The LGA guidance only really makes specific recommendations for such features in respect of sheltered and purpose built accommodation. And even in these premises, the guidance concludes, that there will be reliance ultimately on rescue by the fire and rescue service in the event that residents cannot escape by themselves.

Even more confusingly, the LGA guidance specifically advises *that “It can equally be expected that a resident’s physical and mental ability will vary. It is usually unrealistic to expect landlords and other responsible persons to have in place special arrangements such as ‘Personal Emergency Evacuation Plans.’ This appears to be in direct contradiction to the advice contained in ‘9281, quoted above.*

Whilst the LGA guidance makes a number of quite clear recommendations in relation to measures for protection and means of escape for the general (non-disabled) population of general needs blocks, it is less clear about disabled people in such settings, for whom these

measures may not be accessible or suitable. In this respect, the implication of the LGA guidance is that in the case of a fire, disabled residents of general needs blocks may potentially be left to their own devices and consequently placed at greater risk than non-disabled residents.

A matter for urgent concern.

We know that at least 300 High rise Residential Buildings have been identified as being clad with similar material to Grenfell tower. The London Fire Brigade has also withdrawn the advice for residents to 'stay put,' for 101 blocks across the capital. It is highly likely that disabled people will be resident in many, if not all of these buildings. In the case of these, and perhaps all residential blocks, a number of urgent questions must be asked in relation to fire safety measures for disabled occupants. These include:

- Are lift/s in the building suitable for the evacuation of disabled people?
- Are escape routes accessible and usable by disabled people?
- Are designated refuges available and if so, are they fit for purpose and do they provide voice communication with the emergency services?
- Are final exits accessible and usable by disabled people?
- Do disabled residents and their families know about the presence of features for their protection and escape and how to use them?

Whatever the age of the building and the structural features for the protection and means of escape for disabled occupants, their effectiveness will still depend upon the management plans that have been put in place to complement their use. In the case of residential buildings therefore, questions must be asked of landlords and responsible persons:

- Are building managers/responsible persons aware of the structural fire protection and escape features their buildings contain?
- Is there a management plan in place for the protection and escape of occupants that goes beyond the "stay put" policy?
- Are building managers/responsible persons aware of the structural features designed for protection and means of escape for disabled people their building/s contain?
- Are building managers/responsible persons familiar with the correct use of any structural features for the protection and escape of disabled people their building/s contain?
- Is it known how many disabled residents live in the buildings for which they are responsible?
- Does the landlord have Emergency Evacuation Plans in place for disabled residents?
- Have building managers/responsible persons rehearsed fire evacuation plans with all residents either through organised drills or individually?

Whatever the trajectory and timeline for the implementation of the Hackitt report, it is imperative that in the mean time we must ensure that all occupants including disabled people in HRRBs are safe and that those with legal responsibilities under the current regulatory system, are fully meeting their obligations towards them. Aspire would therefore call on Government to mandate building owners as a matter of urgency to undertake comprehensive risk assessment of existing occupants and the identification of residents with additional fire safety needs and details of the measures adopted to support these, such as

provision of evacuation lifts, fire refuges and Personal Emergency Evacuation Plans, for example.

Given the inconsistent nature of existing guidance as described in this briefing, we would further strongly urge that government issue an mandatory toolkit compiled around the questions set out above, to assist building owners to ensure that assessment of disabled occupants fire safety is as comprehensive as possible.

Addressing the inconsistency in guidance.

As stated above, the inconsistency and contradiction between Fire Safety Order Guidance 9281 and the LGA's fire safety in purpose built blocks of flats, with respect to the protection and escape of disabled occupants, is a matter for considerable concern. It is clear that what the Grenfell Tower tragedy tells us, is that the population of HRRBs is very likely to be diverse, across age groups, ethnic mix and the disabled and non-disabled population.

It is of course the case that the Equality Act 2010 must be adhered to in the disposal of property and its day-to-day management, but it should simply be a matter of standard practice that buildings, including HRRBs, are both designed and managed to reflect the diverse nature of our society. The apparent disparity between the guidance relating to fire safety of disabled people contained in 9281 and the LGA guidance, would seem to suggest that some unacceptable assumptions have been made about the presence of disabled people in 'mainstream' or general needs housing blocks. It is therefore vital that this be redressed in the shortest possible order.

In this light, we would call on government to initiate the production of comprehensive, robust and definitive guidance, which should set out to 'responsible persons'/'duty holders' what is expected in relation to ensuring fire safety of disabled residents. This should be contained in one document which encompasses all relevant aspects, including

- Specific design features and their correct use,
- risk assessment,
- management strategies and Emergency Evacuation Plans.

The essentially diverse array of expertise needed to inform the compilation of such comprehensive guidance exists within the membership of BSI's committees overseeing standards on fire safety and access for disabled people. Government should therefore call upon BSI to establish a cross-cutting working group comprising members of relevant Technical and Consumer committees, to commence work on a Draft for Development; "Fire Safety for Disabled People in Residential Buildings," without delay. Once established as a full British Standard, this document should be seen as the definitive reference that "duty holders" will be expected to follow in relation to meeting the fire safety needs of disabled occupants of their buildings, and as such, inform the measures they implement and specify within "Fire and Emergency Files.'