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Date: 13 May 2013
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LAKANAL HOUSE: DCLG RESPONSE TO THE CORONER'S RULE 43 RECOMMENDATIONS

Summary

1. Following the inquests into the deaths in the Lakanal House fire in July 2009 the Coroner's Rule 43 report of 28 March (Annex A) to you highlights actions which she considers should be taken to prevent a similar tragedy occurring in the future. This submission covers a draft reply for the Secretary of State (Annex B) based on individual Ministers consideration of the specific recommendations (Annexes C-F).

Timing

2. As soon as possible. DCLG is expected to respond to the Coroner by 23 May.

Recommendation

3. That you agree to respond as proposed at Annex B.

Background

4. On 28 March, narrative verdicts were returned into the deaths at Lakanal House in July 2009. The fire, in a 1950's tower block owned by the London Borough of Southwark, is widely regarded as the UK's worst tower block fire. It claimed six lives, including 3 very young children. The Coroner issued three Rule 43 reports at the same time as the verdicts were handed down. These were addressed to the London Borough of Southwark, the London Fire Brigade and to you, as Secretary of State. All were made public. The recommendations for the Department address operational firefighting issues, and policy in relation to fire safety in multi-occupied residential buildings and the Building Regulations.

5. Ministers have agreed recommendations on handling the respective recommendations, reflected in the proposed reply, as follows:

- Annex C – Brandon Lewis: submission on operational fire fighting issues
- Annex D – Brandon Lewis: submission on the Fire Safety Order and guidance
- Annex E – Mark Prisk: submission on housing and fire safety issues
- Annex F – Don Foster: submission on Building Regulation issues

Consideration

Fire risk assessments pursuant to the Fire Safety Order

6. Following the fire in July 2009, a work programme was established to ensure housing providers in the public and private sector were aware of their responsibilities to ensure the safety of residents living in purpose built blocks of flats, including high rise. These responsibilities are set out in statute in the Fire Safety Order 2005 (which applies to those parts of the building which constitute workplaces, and treats residents as 'relevant persons' for the purpose of risk assessment) and in the Housing Act 2004 (which applies to the whole building, including the dwellings, structure and exterior of the building, and the common facilities).

7. This work culminated in July 2011 with the Local Government Association's (LGA) publication 'Fire Safety in Purpose-Built Blocks of Flats' which, whilst developed with DCLG grant funding, is owned by the housing and fire sectors. We are content that this guidance provides sound advice on both the fire risk assessment process and the issues that housing providers should consider if they are to ensure an acceptable level of fire safety. It describes in detail the principle behind and implications of the 'stay put' approach whereby residents remote from a fire elsewhere in the building are likely to be safe to stay in their homes. It also identifies appropriate approaches to risk assessment (including sample inspections of individual flats) and provides examples of the fire safety advice landlords may want to make available to their residents, based on the outcomes of a risk assessment.

8. The LGA plan to undertake a quick review, with the housing sector, to ensure this guidance adequately addresses the issues the Coroner has raised. DCLG officials have offered to assist the LGA, where appropriate. As part of this process, we will consider whether it may be helpful to define the term 'common parts' which is used extensively in the guidance to describe those areas which fall within scope of the Fire Safety Order, but which, in terms of these regulations, relate only to those areas which constitute a workplace, or which provide access to or from one.

9. The guidance was widely promulgated at the time of its publication, and subject to the findings of the LGA's review, we would expect this to be repeated with any revised version. We already make it available on the fire safety pages of gov.uk and by so doing, discharge your duty, under the Fire Safety Order, to ensure such guidance as you consider appropriate is available. The guidance goes beyond the relatively narrow remit of the Order providing a comprehensive approach to managing fire risk in residential buildings.

Fire safety, firefighting and search and rescue

10. The Chief Fire and Rescue Adviser has advised that the Generic Risk Assessment guidance on High Rise Firefighting is currently being revised and will reflect the operational issues identified by the Coroner in respect of fires in high rise residential buildings. The revised version will cover the importance of gathering, recording and

making available premises information, collected under section 7(2)d of the Fire and Rescue Services Act, for operational planning and response purposes. It will also highlight considerations for Incident Commanders when making a decision on whether to evacuate some or all of a building in the event that the spread of a fire suggests that the 'stay put' principle has become untenable.

11. We have noted the Coroner's recommendation that those responsible for high rise residential buildings are required to provide and maintain relevant premises information to assist operational crews understand the layout, construction etc of the building in the event of a fire. The Chief Fire and Rescue Adviser's view is that such a requirement is unnecessary, given the range of options that exist for such information to be collected and recorded for use by operational crews. We consider that mandating the provision of premises information boxes would impose a disproportionate regulatory burden on housing providers.

Retro-fit sprinklers in high rise residential buildings:

12. Since 2006, the Building Regulations (Part B – Fire Safety) provides that the dwellings in new blocks of flats over 30 metres in height should be fitted with sprinklers. This was introduced on the basis of a cost benefit analysis carried out at the time. The Coroner's recommendation is that DCLG considers encouraging providers of housing in high rise blocks to consider retrofitting sprinkler systems to existing blocks. The Coroner did not specify what she meant by "high rise" which could suggest 18 metres or, more likely, the 30 metres used in Building Regulations.

13. However, retrofitting sprinklers into existing buildings can be considerably more costly than for new buildings. It is for landlords and other housing providers to decide whether sprinklers are an appropriate measure to deliver their statutory responsibilities and there was nothing in the evidence given at the inquest that would suggest that the existing advice should change. If the normal fire precautions in a building are properly maintained then it is unlikely that this additional protection could be justified on life safety grounds.

14. The LGA guidance is clear that housing providers should assess the risk in their individual buildings in order to consider whether the installation of sprinklers is necessary for life safety. Following a similar recommendation in a Rule 43 letter from the Coroner for the recent inquests into the deaths of two firefighters in a high rise residential building in Southampton, Terrie Alafat wrote to local housing authorities and private registered providers (Annex G) asking them to consider the Coroner's recommendation. Given this, we do not feel it necessary to take further action.

Building Regulations

15. Unfortunately, the expert witness appointed by the Coroner to advise the inquests gave confused and conflicting evidence on building regulations. This was, to some extent, due to the process of cross examination. Given the confusion in court it is unsurprising that the Coroner has criticised the clarity of the guidance in Approved Document B (Fire Safety) and has called for it to be made clearer.

16. During the Inquest, considerable attention was paid to alterations that had been made to the building, including the replacement in 2006 of the window system by a contractor registered with the FENSA Competent Person Scheme. This scheme allows contractors to certify their work as compliant with the regulations. However, it was established at the inquests that the FENSA scheme did not extend to certification of the wall panels and that the panels themselves did not comply with the regulations.

17. A full review of the Approved Document would require significant resources and have a disruptive effect on the construction industry. Instead, we propose to seek confirmation from FENSA and other scheme providers for replacement windows to ensure that their members are fully aware of the scope of the schemes and the requirements applicable to their work. We would aim to complete this by the end of summer, without the need for the Department to divert significant resources. The Department has also commissioned research intended to feed into a future edition of Approved Document. This work is due complete in 2015 and we expect that a revised Approved Document B could be published during 2016/17.

Communications

18. It is likely that there will be significant degree of media interest in the DCLG response to the Rule 43. Communication colleagues recommend that we publish your response and work is underway to develop media briefing. Further advice will follow.

Finance/Legal issues

19. Legal have cleared this submission and no financial issues have yet been identified. We will provide further advice to Ministers should finance issues arise (most likely in the context of the LGA's review of the guidance).

Conclusion

20. Are you content to reply to the Coroner as proposed in Annex B?

Louise Upton

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