

Fire Safety Bill

HL Bill 132 of 2019–21

On 14 June 2017, a fire broke out at Grenfell Tower, a 24-storey residential housing block in North Kensington, London. The subsequent blaze led to the deaths of 72 people. The Fire Safety Bill forms part of the Government's response to the Grenfell tragedy. It is among measures intended to reform building and fire safety to ensure such a tragedy does not happen again.

Specifically, the Fire Safety Bill will amend the Fire Safety Order 2005 to clarify that the responsible person or duty-holder for multi-occupied, residential buildings must manage and reduce the risk of fire for:

- the structure and external walls of the building, including cladding, balconies and windows;
- entrance doors to individual flats that open into common parts.

The Government contends such measures will empower fire and rescue services to take enforcement action and hold building owners to account if they are not compliant. The Fire Safety Bill is due to be complemented by a forthcoming Building Safety Bill (currently published in draft). This legislation has been accompanied by other measures, including the creation of a new building safety regulator; the provision of grant funding to tackle unsafe cladding on high-rise residential buildings over 18 metres in both the private and social sectors; and the relaunch of the Government's 'fire kills' campaign.

The Government is also undertaking a consultation on the Fire Safety Order 2005, due to conclude in October 2020. The results of that exercise will be taken forward separately to the Fire Safety Bill. These are likely to include provisions in the Building Safety Bill; amendments to the Fire Safety Order; amendments to Building Regulations; and through updated guidance.

The Fire Safety Bill is short, containing only two substantive clauses (though it does include regulation-making powers). It has completed its passage through the House of Commons, where opposition parties were broadly supportive of the legislation. However, opposition amendments were proposed at both committee and report stages aimed at encouraging the Government to move further and faster with the implementation of the Grenfell Public Inquiry Phase I report recommendations; on the issue of the availability of qualified fire risk assessors; the prioritisation of inspections; and on liability for interim and remedial fire safety measures such as waking watches patrolling at-risk premises. No amendments were made to the bill at either stage.

James Tobin | 15 September 2020

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I. Background

I.1 The Building Safety Programme/Grenfell Public Inquiry

The Grenfell Tower was part of North Kensington's Lancaster West Estate, a social housing complex of almost 1,000 homes.¹ A fire in the tower on 14 June 2017 spread rapidly through the building, reportedly assisted by the presence of combustible external cladding. By the time the building had been evacuated and the fire extinguished, the lives of 72 residents had been lost.

Following the Grenfell tragedy, the Government has committed to a range of measures aimed at ensuring greater building safety. A number of these provisions have derived from the building safety programme, established in the aftermath of the fire and which included the appointment of an expert panel led by Sir Ken Knight to advise on immediate measures needed to ensure building safety and help identify buildings of concern.²

The measures are also the result of the Phase I report published by the public inquiry into the Grenfell disaster in October 2019.³ The Phase I report included a significant number of recommendations, including on the responsibilities of building owners and managers providing information to emergency services; collecting information on the building for which they are responsible; and maintaining specific services such as lifts. The Government intends that the Fire Safety Bill will support its plans to introduce secondary legislation to implement recommendations made in the Phase I report, including on information-sharing and inspections.⁴

To date, the Government has banned combustible external cladding in certain buildings and is planning further measures in consultation with industry bodies:

The Government has banned combustible materials in the external walls of high-rise residential buildings of 18 metres and over, and following a review into its effectiveness, is now consulting on extending the ban significantly further, including lowering the 18 metres height threshold to 11 metres.

With the support of local fire and rescue services and a panel of independent expert advisers, MHCLG [the Ministry of Housing, Communities and Local Government] is supporting building owners in taking immediate steps to ensure their residents' safety and in making decisions on any remedial work that is necessary to do.

The programme is working with building owners, housing providers, schools, hospitals and the construction industry, including an Industry Response Group.⁵

On 20 January 2020, the Government published consolidated advice for building owners using and

¹ BBC News, '[Grenfell Tower: What happened](#)', 29 October 2019.

² Ministry of Housing, Communities and Local Government, '[Building Safety Programme](#)', updated July 2020.

³ Grenfell Tower Inquiry, '[Phase I Report](#)', October 2019.

⁴ [Explanatory Notes to the Fire Safety Bill](#), p 3.

⁵ *ibid.*

updating the advice notes first published by the expert panel in 2017.⁶ The new set of guidance covers issues such as the general approach building owners should be taking to fire risk (including for buildings under 18m), as well as specific advice on aluminium composite material (ACM) cladding, high pressure laminate (HPL) panels, balconies and fire doors.⁷ At the same time, the Government announced the creation of a new Building Safety Regulator, established immediately as part of the Health and Safety Executive, to “give effective oversight of the design, construction and occupation of high-risk buildings”.⁸

During an oral statement to the House of Commons also on 20 January 2020, the Secretary of State for Housing, Communities and Local Government, Robert Jenrick, highlighted the role of the Fire Safety Bill in supporting the remediation work underway:

The Home Secretary will deliver the fire safety bill and associated regulatory changes in order to enable delivery of the recommendations of the Grenfell inquiry phase I report. The proposed bill will place beyond doubt that external wall systems, including cladding and the fire doors to individual flats in multi-occupied residential blocks, fall within the scope of the Regulatory Reform (Fire Safety) Order 2005. These changes will affirm the ability to enforce locally against building owners who have not remediated unsafe ACM buildings. Building owners and developers who have not already taken action must do so now. Further delay is not acceptable.⁹

The provisions of the Fire Safety Order are explored below.

The Regulatory Reform (Fire Safety) Order 2005

What is it?

The Regulatory Reform (Fire Safety) Order 2005,¹⁰ or Fire Safety Order, as it is commonly referred to, consolidated a variety of existing legislation on fire safety in non-domestic premises. At the same time, it extended the coverage of these measures so there was a single fire safety regime applying to all workplaces and other non-domestic premises, including common parts of houses in multiple occupation and blocks of flats. It also introduced a risk-based assessment approach to fire safety.¹¹

The order applies to all non-domestic premises (including the communal areas of flats) and designates those in control of premises as the responsible person for fire safety. This duty normally falls on landlords, building owners or building managers. These responsible persons have a duty to ensure that a risk assessment is carried out to identify hazards and risks, and to remove and reduce these as far as possible. The

⁶ Ministry of Housing, Communities and Local Government, ‘[Building safety advice for building owners, including fire doors](#)’, 20 January 2020.

⁷ House of Commons Library, [Fire Safety Bill 2019–21](#), 3 September 2020, p 6.

⁸ Ministry of Housing, Communities and Local Government, ‘[New measures to improve building safety standards](#)’, 20 January 2020.

⁹ [HC Hansard, 20 January 2020, cols 23–5](#).

¹⁰ The Regulatory Reform (Fire Safety) Order 2005, 2005/1541.

¹¹ House of Commons Library, [Fire Safety Bill 2019–21](#), 3 September 2020, p 4.

order also provides for enforcement measures and gives ministers the power to make regulations on necessary fire precautions.¹²

Why is the change deemed necessary?

The roles and responsibilities of the responsible person, as well as the coverage and enforcement of the order, have come under scrutiny, particularly at a time when remedial work to improve the fire safety of some buildings has reportedly been subject to inaction and delay.¹³

What will the bill do?

The bill would amend the Fire Safety Order 2005 to clarify that the responsible person or duty-holder for multi-occupied, residential buildings must manage and reduce the risk of fire for the structure and external walls of the building, including cladding, balconies and windows, and for entrance doors to individual flats that open into common parts.

1.2 Hackitt Review and the Building Safety Bill

Following the Grenfell fire, the Government led by then Prime Minister Theresa May set up the Independent Review of Building Regulations and Fire Safety, led by Dame Judith Hackitt, a former chair of the Health and Safety Executive.¹⁴ The review's purpose was to examine building and fire safety regulations, and related compliance and enforcement (with a focus on high-rise residential buildings), in order to make recommendations to ensure the regulatory system is sufficiently robust and residents feel safe in their homes.

Among the issues examined by the Hackitt review's interim report was the definition of 'common parts' in the Fire Safety Order 2005:

The Fire Safety Order is primarily designed for non-domestic premises and, as such, applies only to the "common parts" of a residential building; for example, common staircases, corridors and the external doors to each flat.

"Common parts" are outlined in article 2 of the Regulatory Reform (Fire Safety) Order 2005 (Fire Safety Order) in relation to domestic premises, that is, parts of the building "used in common" by the occupants of more than one dwelling. Under the Fire Safety Order, common parts do not include any aspects of fire safety within flats or on the outside of a building, such as cladding.¹⁵

The review published its final report in May 2018. It contained over 50 recommendations for the Government about how to deliver a more robust regulatory system for the future.¹⁶

¹² House of Commons Library, [Fire Safety Bill 2019–21](#), 3 September 2020, p 4.

¹³ [HC Hansard, 20 January 2020, cols 23–5](#).

¹⁴ Ministry of Housing, Communities and Local Government, '[Independent Review of Building Regulations and Fire Safety: Final Report](#)', 17 May 2018.

¹⁵ Ministry of Housing, Communities and Local Government, [Independent Review of Building Regulations and Fire Safety: Interim Report](#), 18 December 2017, pp 70–1.

¹⁶ *ibid.*

Building Safety Bill

Following on from the publication of the Hackitt Review, the Government issued a written statement in December 2018 which provided a building safety update and announced the publication of an implementation plan to take forward key parts of the review. In tandem, the Government has also held further consultations on various aspects of fire safety, including on 'Building a Safer Future' seeking views on proposals for a radically new building and fire safety system based on the recommendations of the Hackitt Review.¹⁷

The consultation results have informed subsequent legislative measures. In the same Queen's Speech in December 2019 where the Fire Safety Bill was announced, the Government also set out plans for a Building Safety Bill.¹⁸ This bill was published in draft on 20 July 2020.¹⁹ Whilst separate, the measures contained in each bill are closely related. Specifically, the Building Safety Bill is intended to:

- provide clearer accountability and stronger duties on those responsible for high-rise buildings;
- give residents a stronger voice in the system; and
- strengthen enforcement and sanctions to deter non-compliance.²⁰

The House of Commons Housing, Communities and Local Government Committee is currently taking evidence as part of its pre-legislative scrutiny of the draft Building Safety Bill.²¹

1.3 Consultation on the Fire Safety Order 2005

In June 2019 the Government launched a call for evidence on the Fire Safety Order in England. This ran concurrently with the Government's consultation on building safety referred to above.²² The Government provided the following rationale for the exercise:

[This call for evidence] is targeted at those who have statutory responsibilities under the Fire Safety Order or are otherwise affected by it. This includes enforcing authorities under the Fire Safety Order (Fire and Rescue Services, Fire and Rescue Authorities, local government, Health and Safety Executive, the Crown Premises Fire Inspection Group etc), as well as those responsible for the safety of buildings covered by the Fire Safety Order and those working within them.

[These views] will help to update the evidence base on how the Fire Safety Order is complied with and enforced, help us identify and assess any changes that may be needed and how they may best be achieved. We will use the evidence gathered to inform our next steps, to ensure

¹⁷ Ministry of Housing, Communities and Local Government, '[Government update on building safety and response to 'Building a Safer Future' consultation](#)', 2 April 2020

¹⁸ HM Government, '[Queen's Speech December 2019](#)', 19 December 2019.

¹⁹ Ministry of Housing, Communities and Local Government, '[Draft Building Safety Bill](#)', 20 July 2020, CP 264.

²⁰ '[Explanatory Notes to the Fire Safety Bill](#)', p 4.

²¹ House of Commons Housing, Communities and Local Government Committee, '[Pre-legislative scrutiny of the Building Safety Bill](#)', accessed 11 September 2020.

²² House of Commons Library, '[Fire Safety Bill 2019–21](#)', 3 September 2020, p 10.

the high and proportionate standards of fire safety in all buildings covered by the Fire Safety Order.²³

In its summary of responses, published on 19 March 2020, the Government said the following issues had been raised which required “further consideration”:²⁴

- a) the self-identification of the responsible person and the assurance that they understand and hold the competence to carry out their fire safety duties;
- b) the need to update current guidance which supports the legislation for responsible persons and enforcing authorities, including whether it is accessible for the broad range of persons covered by the Order;
- c) the overlap of legislation, specifically the Housing Act 2004 and Fire Safety Order, that exists in multi-occupied residential buildings;
- d) the effectiveness of current provisions for enforcement under the Fire Safety Order; and
- e) the sharing of fire safety information between individual responsible persons, and between the responsible persons and other relevant personnel involved in the fire safety of the building, for example authorities and relevant persons.²⁵

As a result, in parallel to the Fire Safety Bill, the Government has opened a further public consultation to build on the information gathered from the call for evidence.²⁶ The purpose of this consultation exercise will be to consider what, if any, additional changes are needed to the Fire Safety Order or its supporting guidance to support the Grenfell Tower Phase I report’s recommendations, “aligned with the wider work on building and fire safety across government”.²⁷

The changes proposed in the consultation have three purposes, namely to:

- strengthen the Regulatory Reform (Fire Safety) Order 2005 and improve compliance;
- implement the Grenfell Tower Inquiry Phase I report recommendations that require a change in law to place new requirements on building owners or managers of multi-occupied residential buildings, mostly high-rise buildings;
- strengthen the regulatory framework for how building control bodies consult with Fire and Rescue Authorities and the handover of fire safety information.²⁸

The consultation closes on 12 October 2020. The results from the exercise will be taken forward in a process separate to the Fire Safety Bill. The House of Commons Library notes the consultation proposals are likely to be implemented in several ways: through the Building Safety Bill, amendments to the Fire Safety Order, amendments to Building Regulations, and through updated guidance.²⁹

²³ Home Office, [The Regulatory Reform \(Fire Safety\) Order 2005: Call for Evidence](#), 6 June 2019, p 5.

²⁴ Ministry of Housing, Communities and Local Government, [‘The Regulatory Reform \(Fire Safety\) Order 2005: call for evidence’](#), updated 19 June 2020.

²⁵ *ibid.*

²⁶ Ministry of Housing, Communities and Local Government, [‘Open consultation: Fire safety’](#), 20 July 2020.

²⁷ [Explanatory Notes to the Fire Safety Bill](#), p 4.

²⁸ House of Commons Library, [Fire Safety Bill 2019–21](#), 3 September 2020, p 12.

²⁹ *ibid.*

2. Measures in the bill

The Fire Safety Bill is short, containing only two substantive clauses. It seeks to clarify the scope of the Fire Safety Order 2005 as well as provide for the introduction of secondary legislation to implement the recommendations put forward by the Grenfell Tower Inquiry Phase I report. The Government also contends that the bill will complement existing enforcement powers, including under the housing health and safety rating system:

The Fire Safety Bill will [...] affirm Fire and Rescue Authorities have the relevant enforcement powers to hold owners or managers to account. [...] It will also complement the existing powers local authorities have to take enforcement action against building owners and managers under the housing health and safety rating system (HHSRS) provided for in the Housing Act 2004 and the Building (Amendment) Regulations 2018 (SI 2018/1230) which came into force on 21 December 2018 and banned the use of combustible materials within the external walls, and certain attachments to the external walls, of any new building with a storey at least 18 metres in height where:

- a) the building contains at least one dwelling;
 - b) the building contains certain residential accommodation for the treatment, care or maintenance of persons; and
 - c) the building contains certain rooms used for residential purposes, including student accommodation and school dormitories.
- (Including such a building created by a material change of use.)

The Fire Safety Bill will also support the Government's intended action to introduce secondary legislation to implement the specific recommendations made in the Grenfell Tower Inquiry Phase I report. The recommendations called for new legal duties on "building owners or managers of high-rise buildings" in relation to inspection and information sharing with the local Fire and Rescue Service. This includes the requirement for building owners or managers to share information with their local Fire and Rescue Service about the design of its external walls and details of the materials of which they are constructed and to undertake regular inspections of individual flat entrance doors.³⁰

As such, the clauses in the bill are intended to do the following:

2.1 Clause 1: Premises to which the fire order applies

Clause 1 would amend the Fire Safety Order 2005 to make clear that it applies, when the premise in question is a building containing two or more sets of domestic premises, to:

- a) the building's structure and external walls and any common parts, thus removing any ambiguity around whether such parts are covered;
- b) doors between domestic premises and common parts. This will include flat entrance doors and other doors adjacent to common parts that provide—or line—escape routes from multi-occupied residential buildings.

³⁰ [Explanatory Notes to the Fire Safety Bill](#), p 3.

As above, the clause also seeks to provide further clarity that the definition of external walls includes doors or windows in those walls and anything attached to their exterior, all of which will thus be within scope of the Fire Safety Order. This category will include cladding, insulation, fixings and balconies. The Government contends these are important clarifications for ensuring that owners or managers include an assessment of risk related to fire and fire spread in respect of these parts of the relevant premises.³¹ As a result, such persons will be under a duty to take general fire precautions to ensure the premises are safe.

The amendments also affirm that fire and rescue authorities can take enforcement action against responsible persons if they have failed to comply with their duties under the Fire Safety Order.

2.2 Clause 2: Power to change premises to which the Fire Safety Order applies

Clause 2 would provide for delegated powers to ensure that the relevant authority (the secretary of state in England, and Welsh ministers in Wales) can amend the Fire Safety Order, including to change or clarify the types of premises falling within its scope. The Government contends this will ensure, for example, that any new types of premises can be brought into the scope of the Fire Safety Order relatively quickly, thereby improving fire safety.³²

2.3 Territorial Extent

Clause 3 deals with the territorial extent of the bill, stating that if enacted it would apply to England and Wales only. Scotland and Northern Ireland both have separate legislation in place. However, the explanatory notes to the bill observe that the provisions in the bill relate to matters within the legislative competence of the Senedd Cymru (Welsh Parliament), and therefore that the Welsh minister will put the matter before the Senedd Cymru for a legislative consent motion.³³

3. Consideration of the bill in the House of Commons

3.1 Second reading

The bill's second reading took place in the House of Commons on 29 April 2020. Introducing the bill, the Minister for Security, James Brokenshire, noted the legislation was short and technical and was intended to work in tandem with the forthcoming Building Safety Bill. He said the bill's primary purpose was to clarify that the fire safety order applies to the external walls, including cladding and balconies, and individual flat entrance doors in multi-occupied residential buildings.³⁴

Noting the findings in the Grenfell Tower Inquiry's Phase I report and the consolidated advice published by the independent expert advisory panel on building safety, Mr Brokenshire said such clarification was required because inconsistencies had been identified:

We have established that there are differing interpretations of the provisions in the order as to

³¹ [Explanatory Notes to the Fire Safety Bill](#), p 7.

³² *ibid.*

³³ *ibid.*, p 6.

³⁴ [HC Hansard, 29 April 2020, col 347.](#)

whether external walls and, to a lesser extent, individual flat entrance doors in multi-occupied residential buildings are in scope of the order. For that reason, we submit that the bill is a clarification of the fire safety order. It will apply to all multi-occupied residential buildings regulated by the order. The current ambiguity is leading to inconsistency in operational practice. That is unhelpful at best and, at worst, it means that the full identification and management of fire safety risks is compromised, which can put the lives of people at risk.³⁵

The minister also highlighted the regulation-making powers in the bill and the Government's intention to bring forward secondary legislation following consultation:

The bill will also provide the firm foundation on which the Government will bring forward secondary legislation to enact those recommendations [from the Grenfell Tower Inquiry Phase I report]. Our proposals will be the subject of public consultation, to be published in the coming months. The consultation will also set out proposals to ensure that the fire safety order continues to regulate fire safety effectively in all the premises it covers, as part of the ongoing improvements to building safety following our 2019 call for evidence on the order.

The bill will give the Secretary of State a regulation-making power to amend or clarify the list of premises that fall within scope of the fire safety order. That will enable us to respond quickly to any further developments in the design and construction of buildings and our understanding of the combustibility and fire risk of construction products.³⁶

Mr Brokenshire also noted the challenges present to the implementation of the bill's provisions, including the need for updated risk assessments in many of the buildings covered by the order:

I am aware that the provisions of the bill will require potentially significant numbers of responsible persons to review and update their fire risk assessments. For many, that will require specialist knowledge and the expertise of the fire risk assessor. We are working with representatives of the sector to understand the particular challenges in delivery. That will inform our approach to the implementation of the bill, while maintaining a clear and consistent approach to fire risk assessments. In any event, and in line with the independent expert advisory panel's consolidated advice, I would none the less encourage those with responsibilities to carry out a fire risk assessment under the order as a matter of good practice and to consider flat entrance doors and external wall systems as part of their fire risk assessment for multi-occupied residential blocks as soon as possible, if they have not already done so.³⁷

In conclusion, the minister said the bill complements other actions taken to date and will provide a "catalyst to drive the culture change needed within our building and construction sector to put safety and security at the forefront and provide responsibility and accountability where people fall short".³⁸

Speaking for the Opposition, the Shadow Home Secretary, Nick Thomas-Symonds, said that Labour

³⁵ [HC Hansard, 29 April 2020, col 347.](#)

³⁶ *ibid*, col 348.

³⁷ *ibid*.

³⁸ *ibid*, col 349.

supported the bill. However, he urged the Government to go further and faster in improving fire safety:

Getting the bill right is vital, not just to address the failings so horrifically exposed by Grenfell but to guard against similar incidents—incidents that may appear unlikely or unimaginable today, but could be all too real in future. Labour Members support the bill, but we urge the Government to go further and faster on fire safety so that there are no more Grenfell Tower tragedies and people are kept safe and secure in their own homes.³⁹

Mr Thomas-Symonds also questioned when the further measures the Government promised would be brought forward and implemented:

Although those powers [in the bill] are welcome, they are clearly not enough in themselves to meet the Government's pledge to prevent another tragedy from happening. Clause 2 gives the Government powers to make further changes through secondary legislation, and the Government have said that that will provide a foundation to take forward recommendations.

[...]

However, the Government have not given a timetable for when they will deliver those recommendations through secondary legislation. They must do so urgently. There is an urgent need for the fire safety measures recommended, and that urgency must be reflected in the actions of Ministers. Indeed, almost three years after Grenfell, this three-clause bill is the first and only piece of primary legislation on fire safety that the Government have put before the House.⁴⁰

Responding to the minister's points on the implementation of the bill, the Shadow Home Secretary also raised the resources available to the fire service to carry out inspection and enforcement activities:

The bill will require a higher level of inspection and enforcement and will increase the workload on fire and rescue services. There has to be clarity about the funding to carry out such work. The Fire Brigades Union has said today that there are 1,100 fire-safety inspectors left; there have to be more to carry out the duties in the bill. Between 2010 and 2016, the fire and rescue services were cut centrally by 28% in real terms, with a further cut of 15% by 2020. That led to 12,000 fewer firefighters—20% of the whole service.⁴¹

Speaking for the Liberal Democrats, justice spokesperson Daisy Cooper said her party welcomed the bill as a "first move in the right direction" but only a first move, as "key aspects are not addressed".⁴² These included the burden which she argued would fall on tenants, leaseholders, local government and the fire service, a severe shortage of fire safety inspectors, and the costs already incurred by many leaseholders for remedial fire safety work.

³⁹ [HC Hansard, 29 April 2020, col 350.](#)

⁴⁰ *ibid.*

⁴¹ *ibid.*, col 351.

⁴² *ibid.*, col 369.

3.2 Committee stage

The committee met to consider the bill over two sessions on 25 June 2020. In the first session, the committee took evidence from witnesses including the National Fire Chiefs Council (NFCC), the Fire Sector Federation, the L&Q Group, the Fire Brigades Union and the Royal Institute of British Architects.⁴³ In the second session, the committee considered amendments to the bill, including three that were moved to a vote. All three were voted down, however, and thus no amendments were made to the bill in committee.

A brief summary of the amendments voted on is provided below.⁴⁴

New clause 2 and new clause 7: These amendments were debated together and, along with new clause 1 (which was withdrawn without division), sought to establish a public register of fire risk assessments and assessors, and provide for the accreditation of fire risk assessors.

New clauses 1 and 2 were moved by Daisy Cooper (Liberal Democrat MP for St Albans) and had support from Labour. New clause 1 was intended to create a public register of fire risk assessments and new clause 2 to create a public register of fire risk assessors. Ms Cooper argued these measures were necessary because of a lack of assessor numbers and ‘rogue’ assessors claiming to be certified without the requisite accreditation.⁴⁵ She also noted such a register was a recommendation made by the Hackitt Review. Similarly, new clause 7 was moved by Sarah Jones (Labour MP for Croydon Central) and called for the creation of a new fire risk assessor accreditation system.

In response, the Minister of State for the Home Office, Kit Malthouse, agreed there was a need for reform concerning fire risk assessors to improve capacity and standards. However, he said work was already ongoing in this area, including through an industry-led competency steering group and its working group on fire risk assessors. Mr Malthouse added:

We are working with the NFCC and the fire risk assessor sector to take forward plans for addressing the short-term and long-term capability and capacity issues within the sector. I share hon. Members’ alarm at the existence of unqualified fire risk assessors; one wonders how many decades this situation has been allowed to persist unnoticed by anybody in this House or by any Government of any hue. The fire safety consultation, which will be issued shortly—I have already committed to that—will bring forward proposals on competence issues.⁴⁶

New clause 2 was defeated by 9 votes to 6, and new clause 7 by the same margin.⁴⁷

New clause 6: This amendment was moved by Sarah Jones (Labour) and would have implemented requirements on building owners or managers that were among the recommendations from the Grenfell Tower Public Inquiry Phase I report. In moving the amendment, Ms Jones said it sought to

⁴³ [Public Bill Committee, Fire Safety Bill, 25 June 2020, session 2019–21, first sitting.](#)

⁴⁴ For a full discussion of the amendments withdrawn without division, see House of Commons Library, [Fire Safety Bill 2019–21](#), 3 September 2020.

⁴⁵ [Public Bill Committee, Fire Safety Bill, 25 June 2020, session 2019–21, second sitting, cols 47–8.](#)

⁴⁶ *ibid*, col 51.

⁴⁷ *ibid*, col 52, and col 63.

bring the timetable forward for the Government’s implementation of these recommendations:

It just pushes faster and implements more quickly the action that the Government have committed to implementing [the recommendations]. I press the Government to accept that that is possible, or to set out exactly when those things will become part of legislation.⁴⁸

In response, Kit Malthouse said he recognised the “impatience” to get the Grenfell inquiry measures in place.⁴⁹ However, he said it was important to get these measures right and to ensure that “the changes made to building safety will be cultural as well as legislative and structural”.⁵⁰

New clause 6 was also defeated by 9 votes to 6.⁵¹

3.3 Report stage

Report stage of the bill took place on 7 September 2020. As outlined below, several opposition amendments were debated, though none were passed.

New clause 1: Grenfell Phase 1 recommendations

Moved by Sarah Jones (Labour), new clause 1 was similar to new clause 6 moved at committee stage. It would have placed various requirements on building owners or managers, implementing recommendations made in the Grenfell Tower Inquiry Phase 1 report. Moving the amendment, Ms Jones said that her party supported the bill, but that it remained a “shamefully inadequate response to the multiple problems for fire safety”.⁵² In particular, she was critical of the delay in implementing the Grenfell phase 1 recommendations:

The Government said that the introduction of the Fire Safety Bill would take them a step further in delivering the inquiry’s recommendations and recently cited the bill as one of their key priorities in response to a deeply frustrated letter from Grenfell survivors. Yet the bill does not even include provisions for any of the measures called for by the first phase of the inquiry.⁵³

Ms Jones said the Government had yet to implement the recommendations and had “given no timetable for when they will deliver the inquiry’s recommendations through secondary legislation”.⁵⁴ She said that new clause 1 would “do what the Government say must come later” and place robust requirements on building owners or managers and implement the recommendations from phase 1 of the Grenfell Tower inquiry.⁵⁵ In particular, she said the clause had four key objectives:

In what is a very complex world of building and fire safety, the new clause is relatively simple. It

⁴⁸ *ibid*, [Public Bill Committee, Fire Safety Bill, 25 June 2020, session 2019–21, second sitting, col 60](#).

⁴⁹ *ibid*, cols 61–2.

⁵⁰ *ibid*.

⁵¹ *ibid*, col 63.

⁵² [HC Hansard, 7 September 2020, col 412](#).

⁵³ *ibid*.

⁵⁴ *ibid*, col 413.

⁵⁵ *ibid*.

seeks to do four things: the owners of buildings that contain two or more sets of domestic premises would share information with their local fire and rescue service about the design and make-up of the external walls; they would complete regular inspections of fire entrance doors; they would complete regular inspections of lifts; and they would share evacuation and fire safety instructions with residents. These measures are straightforward and are supported by key stakeholders.⁵⁶

In response, the Minister of State for the Home Office, James Brokenshire, said he recognised the desire behind the new clause to create “that sense of certainty and of getting on with things at the earliest possible opportunity”.⁵⁷ However, he said that it proposed measures to which the Government was already committed:

I just observe that it obviously contemplates that the measures would be brought forward by subsequent changes to the fire safety order. That is precisely the approach that the Government are already taking, as reflected in the consultation that concludes on 12 October. Therefore, her proposal—and I appreciate that she seeks to hasten—actually does not hasten any more than what the Government are already intending and proposing in respect of the regulations that this bill provides the framework and foundations for, and that is the sequencing we intended.⁵⁸

He added the Government would “move with all haste and expedition” once the Fire Safety Bill was added to the statute book to put the required regulations in place.⁵⁹

New clause 1 was subsequently moved to a division where it was defeated by 318 votes to 188.⁶⁰

New clause 2: accredited assessors

Sarah Jones also spoke to new clause 2, which would have required fire risk assessors to be accredited, again in keeping with amendments moved at committee stage. Referencing the debate in committee, Ms Jones said she hoped the minister would be able to provide an update on the industry-led competency steering group referred to at that time, and when the Government planned to bring forward changes to address the issue of unqualified fire risk assessors.

In response, Mr Brokenshire again reiterated that the Government agreed on the need for reform to improve the capacity of fire risk assessors and competency standards.⁶¹ He said that included the role for the industry-led competency steering group working under the auspices of the Ministry of Housing, Communities and Local Government’s building safety programme and its sub working group on fire risk assessors. The minister reiterated that group is looking at ways to increase competence and capacity in the sector. He said the competency steering group will publish a final report shortly, including proposals in relation to creating a register of fire risk assessors, third party accreditation and a competence framework for fire risk assessors. Mr Brokenshire said the Government will give detailed consideration to the report’s recommendations at that time.

⁵⁶ [HC Hansard, 7 September 2020, col 413.](#)

⁵⁷ *ibid*, col 440.

⁵⁸ *ibid*.

⁵⁹ *ibid*.

⁶⁰ *ibid*, cols 446–8.

⁶¹ *ibid*, col 441.

Mr Brokenshire added that the Government was working with others in the sector to address the issue of capability and capacity:

The Government are also working with the National Fire Chiefs Council, the fire risk assessor sector and the wider fire sector to take forward plans for addressing both the short-term and long-term capability and capacity issues within the sector. The fire safety consultation will also bring forward proposals on issues relating to competence. Members are understandably keen for this work to be brought forward, but it is vital that we get this right and that the Government listen to the advice in order to frame this effectively and appropriately. Once the fire safety consultation responses have been considered—as I said, it closes on 12 October—the Government will be able to determine the most appropriate route to implement changes.⁶²

New clause 2 was debated but not put to a division (“not called”).

New clause 3: Prioritisation of risk

Sarah Jones also spoke to new clause 3, which would have required the schedule for inspecting buildings to be based on a prioritisation of risk, not an “arbitrary distinction” of types of buildings.⁶³ Speaking to the amendment, Ms Jones said that many experts and stakeholders have “significant concerns” over how the bill would be implemented.⁶⁴ Further, Ms Jones drew attention to remarks made by the minister responding in committee who referred to the building risk review programme, which looks “to ensure that local resources are targeted at those buildings most at risk”.⁶⁵ She said that Labour would like to see a similar provision added explicitly to the bill via new clause 3. Ms Jones said that local fire and rescue services know their areas and the buildings where there is greatest risk, and thus it should be they who decided what to prioritise first.⁶⁶

Responding, the minister said the Government had made clear in committee that it believed adequate and established arrangements are in place to ensure that enforcement authorities target their resources appropriately and are accountable for their decisions, without the need to make it a statutory requirement.⁶⁷ He added that the fire and rescue national framework for England already requires fire and rescue authorities to have a locally determined risk-based inspection programme in place for enforcing compliance with the fire safety order. The framework sets out the expectation that fire and rescue authorities will target their resources on those individuals or households who are at greater risk from fire in the home and on those non-domestic premises where the life safety risk is greatest. The national framework for Wales includes similar provisions.

In parallel, Mr Brokenshire noted the regulators’ code states that all regulators should base their regulatory activities on risk, take an evidence-based approach to determine the priority risks in their area of responsibility and allocate resources where they would be most effective in addressing those priority risks. He said that the building risk review programme, which will see all high-rise residential

⁶² [HC Hansard, 7 September 2020, col 441.](#)

⁶³ *ibid*, col 410.

⁶⁴ *ibid*.

⁶⁵ [Public Bill Committee, Fire Safety Bill, 25 June 2020, session 2019–21, second sitting, col 62.](#)

⁶⁶ [HC Hansard, 7 September 2020, col 415.](#)

⁶⁷ *ibid*, cols 442–3.

buildings reviewed or inspected by fire and rescue authorities by the end of 2021, will form a key part of this.

New clause 3 was debated but not put to a division (“not called”).

New clause 4: meaning of responsible person

New clause 4 was another Labour amendment, aimed at clarifying the definition of ‘responsible person’ in the bill to ensure leaseholders are not considered such unless they are also the owner or part owner of the freehold. Speaking to the clause, Sarah Jones, noted that the Fire Safety Bill is a foundational bill intended to provide clarity on what is covered under the fire safety order and which will inform other related and secondary legislation. She argued new clause 4 would be an important example of that kind of clarification by ensuring the definition of responsible person did not include leaseholders who should be exempt.⁶⁸ Further, she noted that the draft Building Safety Bill places various requirements on the responsible person, and refers to the fire safety order for that definition. Therefore, she argued it was vital that the fire safety order makes it clear so that there was no ambiguity. Otherwise, there was a risk of confusion and misalignment between the two pieces of legislation, and a danger that the responsible person might seek to use that ambiguity to avoid their responsibilities under the bill.

The minister responded that the leaseholder of a flat was unlikely to be a responsible person for the non-domestic premises.⁶⁹ Mr Brokenshire noted that the exceptions to that would be where they own or share ownership of the freehold, which was acknowledged in the new clause. However, he said that a leaseholder can be a duty holder under article 5 of the fire safety order, and it is important that the order provides that ability, which will be determined by the circumstances of a particular case. Further, he contended that legislating to remove the leaseholder as responsible person would undermine the principles of the order and could have the unintended consequence of creating a vacuum of responsibilities, which in turn could compromise fire safety.

New clause 4 was debated but not put to a division (“not called”).

New clause 5: Waking watches

Sarah Jones also spoke to new clause 5, which would have required the UK Government (for England) and the Welsh Government (for Wales) to specify when a waking watch (round the clock safety patrols) must be in place for buildings with fire safety failures. She highlighted the situation faced by numerous leaseholders who have been “forced to pay extortionate fees” for interim fire safety measures—most commonly, waking watches—while progress on remediation work has been too slow.⁷⁰ She said the aim of new clause 5 was to clarify when a waking watch should and should not be in place, and thus prevent such expense where it was unnecessary.

Responding, the minister said the Government was conscious of the issue but suggested there were technical issues with the amendment whereby the approach taken could lead to greater uncertainty

⁶⁸ [HC Hansard, 7 September 2020, col 415.](#)

⁶⁹ *ibid*, col 443.

⁷⁰ *ibid*, col 415.

and more waking watches where they are not intended.⁷¹ However, Mr Brokenshire also added that the Government was working with the National Fire Chiefs Council to update relevant guidance due to be published “very shortly”.⁷² He said that, once that guidance was available, the Government would ask the Fire Protection Board to advise fire and rescue services on how best to ensure it is implemented on the ground by responsible persons. He said this would also include looking into other measures, such as installing building-wide fire alarm systems, to reduce the dependency on waking watches wherever possible.

New clause 5 was debated but not put to a division (“not called”).

Amendment 1 (and new schedule 1): electrical appliances

The only amendment not tabled by the Labour frontbench was amendment 1, proposed by Sir David Amess (Conservative MP for Southend West). Amendment 1 (and the associated new schedule 1) would have clarified that the Fire Safety Order applied to electrical appliances. Speaking to his amendment, Sir David said the purpose of his proposal was to be proactive, helping to prevent fires caused by electrical sources of ignition and ensure that consideration was given to the safety of electrical appliances, as they were a key cause of fires in people’s homes.⁷³

In response, the minister pointed out that electrical products intended for use by consumers are already regulated under the Electrical Equipment (Safety) Regulations 2016, which require manufacturers to ensure safeguards are in place to protect the health and safety of persons, domestic animals and property.⁷⁴ He said the regulations place strict obligations on manufacturers and importers to ensure that products are safe. Further, he reminded the House that the Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020 came into effect on 1 June. These regulations require that electrical installations must be inspected and tested by a qualified and competent person at least every five years.

Amendment 1 was debated but not put to a division (“not called”).

EWSI Forms

During the debate, the minister also commented on the issue of EWSI External Wall Fire Review forms that had been raised by several of the participants in the debate, particularly in the challenges they have created for many leaseholders when attempting to sell their properties. Developed by the Royal Institution of Chartered Surveyors, such forms indicate that an external fire wall review has been undertaken on a residential building. However, a shortage of those qualified to undertake such surveys and the time taken to complete them has led to reports of house sales either collapsing or being put on indefinite hold.⁷⁵ This has effectively left some flat owners trapped in affected buildings as mortgage providers are unwilling to lend in the absence of such documentation.

⁷¹ [HC Hansard, 7 September 2020, col 444.](#)

⁷² *ibid.*

⁷³ *ibid*, col 418.

⁷⁴ *ibid*, col 445.

⁷⁵ *Guardian*, [‘Thousands of UK flat owners can't sell due to fire safety holdup’](#), 5 September 2020.

James Brokenshire said the Government was aware of the issue and was working with lenders to support a proportionate approach and explore how other evidence might assist the valuation process.⁷⁶ He added that the Government did not support a blanket approach to the use of EWS1 forms on buildings and was encouraging mortgage lenders to accept other equivalent evidence from building owners for valuation purposes. In addition, he said the Minister for Fire and Building Safety (Lord Greenhalgh) had held a roundtable with mortgage lenders, where Mr Brokenshire said lenders agreed that a nuanced, proportionate approach to risk was required which they are reflecting in their policies and guidance to valuers. He added that a further roundtable would be held with lenders shortly.

Commencement of the bill and structural fire protection

In his remarks at report stage, Mr Brokenshire also clarified the Government's intentions for the bill's commencement and its rationale for the express inclusion of structural fire protection in the provisions, again which had been raised by a number of members and industry observers.⁷⁷ Regarding structural fire safety, the minister said the bill intends to reinforce existing operational practice, which is set out in the Government's guidance, *Fire Safety Risk Assessment: Sleeping Accommodation*, issued in 2006.⁷⁸ In particular, this guidance sets out respective requirements for intrusive and non-intrusive building surveys. Mr Brokenshire observed that advice is also reflected in the industry-recognised guidance, *Fire Risk Assessment: Guidance and a Recommended Methodology*.⁷⁹ A revised version of this guidance is currently being prepared, which the minister said would reinforce that point.⁸⁰

About commencement, Mr Brokenshire said this was being planned in coordination with the Fire Sector Federation and the National Fire Chiefs Council:

We have established a task and finish group, co-chaired by the Fire Sector Federation and the National Fire Chiefs Council, that brings together a range of stakeholders with an interest in fire safety to provide a recommendation on how the bill should be commenced. The group will advise on the optimal way to meet the bill's objectives of improving the identification and assessment of fire risks in multi-occupied blocks and addressing them as soon as possible to ensure residents' safety while effectively managing any operational impact. The group is expected to report no later than the end of September.⁸¹

3.4 Third reading

The bill also received its third reading in the House of Commons on 7 September 2020. Speaking for the Government, James Brokenshire reiterated that it remained committed to fixing the fire safety system in the wake of the Grenfell tragedy, and said that the bill was a key part of that process:

As a Government, we remain fully committed to fixing that system, to reforming fire and building safety and to ensuring that the events of 14 June 2017 are never repeated. People have

⁷⁶ [HC Hansard, 7 September 2020, col 444.](#)

⁷⁷ *ibid.*

⁷⁸ Home Office, [Fire safety risk assessment: sleeping accommodation](#), 2006.

⁷⁹ BSI, *Fire risk assessment: Guidance and a recommended methodology*, 2012.

⁸⁰ [HC Hansard, 7 September 2020, col 440.](#)

⁸¹ *ibid.*

a right to be safe and feel safe in their homes. On the day of publication of the Grenfell Tower Inquiry's Phase 1 report, my right hon. Friend the Prime Minister accepted in principle all 12 recommendations that were addressed to the Government directly, 11 of which will require implementation in law. The Fire Safety Bill, which will amend the Regulatory Reform (Fire Safety) Order 2005—the fire safety order—is an important first step towards enacting these recommendations.⁸²

Responding for Labour, Sarah Jones said her party remained supportive of the bill but was “desperately disappointed” that the Government had not gone further and faster in implementing fire safety reforms:

It is difficult to understand why the Government, who promised to implement the recommendations in full and without delay, have not chosen to make the concessions to include provision for them in the bill. It is difficult to understand why responsible owners should not have to share evacuation plans with residents or undertake regular inspections of flat doors or lifts. It is difficult to understand why the Government are content with a situation where a fire risk assessor needs no qualifications whatever. It is difficult to understand why we cannot define the responsible owner in such a way to avoid leaseholders, who are already paying so much, footing the bill for things that are not their fault.⁸³

The bill was given a third reading without division.

4. Read more

- House of Commons Library, [Fire Safety Bill 2019–21](#), 3 September 2020
- UK Parliament, [‘House of Commons Public Bill Committee on the Fire Safety Bill 2019–21: Written Evidence’](#), 26 June 2020

⁸² [HC Hansard, 7 September 2020, col 449.](#)

⁸³ *ibid*, col 450.