

The Government's Draft Building Safety Bill

Will it really protect and empower residents living in blocks of flats in England?

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8 OCTOBER 2020

Post-Grenfell government (in)action



- Building Safety Programme chaired by Sir Ken Knight oversees cladding remediation



- Independent Review of Building Regulations and Fire Safety led by Dame Judith Hackitt, former Chair of Health and Safety Executive



- Public Inquiry into Grenfell Inquiry led by Sir Martin Moore-Bick
- Combustibles ban in external walls for **NEW** buildings over 18m
- Sprinklers to be required in **NEW** residential buildings over 11 m (was 30m)
- **Social Housing Regulator now has powers to consider safety**
- Homes (Fitness for Human Habitation) Act 2018
- Social Housing Green Paper... but still nothing happening

Plus loads more reviews...



Draft Building Safety Bill

Presented to Parliament by the Secretary of State for Housing, Communities and Local Government by Command of Her Majesty July 2020

- Hackitt's proposals generally accepted by government
- Draft Building Safety Bill - consultation ends 12 October 2020
- Introduces more rigorous regulatory enforcement for high-rise residential buildings and wider reforms to building control in England
- Some UK-wide measures: creation of a New Homes Ombudsman, regulation of construction products, and new professional standards for architects

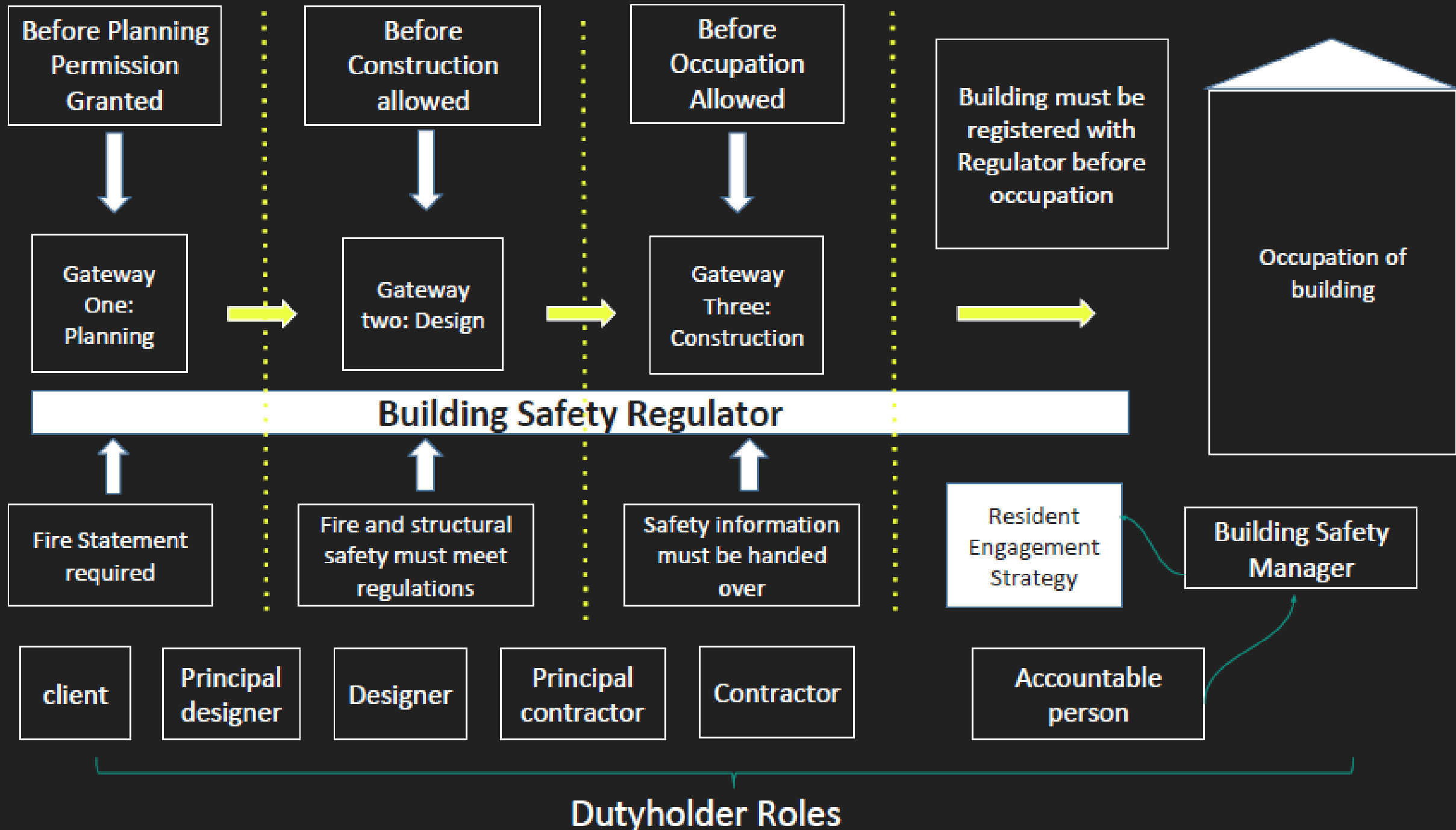
Residents at the heart of the new system?

“The safety of residents is of paramount importance and the Government is determined to ensure that the views and interests of residents are at the heart of the new building safety regulatory framework. We know that some residents feel that they are not listened to when it comes to the safety of their home or the building they live in. It is crucial that Government ensures that the views and concerns of residents can never be ignored by those responsible for managing the safety of their buildings.”

p.79, MHCLG (2019), *Building a Safer Future*

The proposed new regulatory system

- **Higher-risk residential buildings of 18 metres+ or more than 6 storeys**
- **Building Safety Regulator** with new civil and criminal enforcement powers
- **Legal Dutyholders** involved in design, construction and management
- **Gateway Points** will act as stop/go decision points for regulatory compliance of NEW buildings; existing buildings will be transitioned into the new system
- every building to have an **Accountable Person** and **Building Safety Manager**
- new building safety **Golden Thread**, registration and certificate system
- residents to have **direct access to the Building Safety Regulator** and **greater rights to safety information** from their landlord / freeholder
- **tougher penalties** for non-compliance



**THE PROPOSED SYSTEM HAS SOME
MERIT BUT IS BADLY FLAWED**

**HERE ARE FIVE THINGS IN THE BUILDING
SAFETY BILL THAT MUST BE STOPPED**

1. The Proposed Scope of Height and Type is Dangerously Narrow with Opt-Outs

It will **EXCLUDE** residential blocks below 18 metres or 7 storeys

It will **EXCLUDE** care homes, prisons, detention centres, hospitals, hospices, hotels, hostels, and guest houses

Office to residential conversions or adding two additional floors **EXCLUDED** from Gateway 1 requirements

Bristol Premier Inn: Fire at hotel near Cribbs Causeway

© 18 July 2019

4 storeys



Beechmere care home, Crewe 2019



2 storeys

(Image: Laura Smith MP)

Bolton Cube - student accommodation 17.8m



Samuel Garside Barking, 2019 Residential 13.75m



Newgrange care home 2017, Cheshunt, Herts, 2 fatalities 1 storey



Richmond House, Worcs, 2019, 4 floors

CAMPAIGN DEMANDS

Height cut-off illogical from fire safety perspective

- fire fighting capacity and single means of escape
- systemic compartmentation breaches
- below 18 metre buildings historically subject to weaker fire safety regulations
- new sprinkler law begins at 11 metres

Excluding care homes / hospitals illogical when new combustible 18m+ ban includes them

Office to residential conversions = some of the most dangerous buildings out there

“We saw in the Bolton fire, where the building was 17.6 or 17.8 metres high – just a matter of centimetres away from the 18-metre threshold – that height alone was simply too crude a measure and that building safety needs to be proportionate to the building.”

Robert Jenrick

Secretary of State for Housing, Communities
and Local Government



new system should automatically include all residential buildings from 11m - no opt-outs - plus all buildings of any height where people sleep overnight that pose higher risks to life from fire due to either (i) unsafe design / construction / refurb (ii) constrained ability of local fire service to fight a fire, or (iii) occupiers' inability to independently escape from a fire like care homes, hospitals, hospices, and prisons.

2. Enforcement Powers Now Watered Down

Original proposal

a new building cannot be occupied without a 'Building Safety Certificate' issued by the Regulator stating it was legally compliant, safe for occupation, and prepared for an emergency

Accountable Person would face criminal prosecution for breaking this law; non-compliance would put developers financial investment at risk

Draft Bill

a new building can be occupied without a Certificate - the Accountable Person now only required to have registered with the Regulator in advance. Occupation will then trigger the fire risk assessment process.

Accountable Person will only face prosecution for allowing occupation without registering with the Regulator.

CAMPAIGN DEMANDS

Government has gone from a TEETH TO TICK BOX approach. Not acceptable that occupation triggers the risk assessment and safety case process - a building should be deemed safe for occupation before people are allowed to live there not as afterthought.

Without the threat of financial loss from a building not being able to be occupied, there is less incentive to comply with fire safety law

NO
CERTIFICATE,
NO
OCCUPATION!

THE GOVERNMENT MUST REINSTATE the requirement for new buildings to have a Building Safety Certificate assuring residents that their homes and building meet regulatory compliance and there are approved plans in place for dealing with fire risk and emergencies.

3. Tougher Sanctions for Breaching Building Regulations also Watered Down

GOOD NEWS

The Bill extends time limits in Sections 35 and 36 of the Building Act 1984 to TEN YEARS to bring criminal prosecutions and apply formal enforcement powers in relation to non-compliant work; and gives the new Regulator powers to prosecute offenders. Failure to comply with Regulator notices carries a maximum penalty of up to two years in prison and an unlimited fine.

BAD NEWS

Government has inexplicably **DROPPED** proposals to finally activate Section 38 of the Building Act 1984 to provide a private right of action - to sue for damages - where a breach of building regulations causes damage (including the death of, or injury to, any person)

CAMPAIGN DEMANDS

Activating S38 would make it much easier for residents to sue for breaches in building regulations and bring damages claims for death or injury for alleged breaches of building regulations rather than going through the more difficult process of proving negligence. This would also be a powerful incentive for developers to follow safety regulations in the first place.

ACTIVATE SECTION 38 TO ENABLE RESIDENTS TO SUE DEVELOPERS FOR BREAKING THE LAW

THE GOVERNMENT MUST ACTIVATE SECTION 38 OF THE BUILDING ACT - residents and the general public should be able to bring private prosecutions more easily and sue for damages. If only Trading Standards and the Regulator have the power to prosecute, the system will remain open to conflicts of interest and capacity limits.

4. New Regulatory System Focused on Future Builds and Very Vague about Current Buildings

“Proposals for new higher-risk buildings will go through the Gateway process, and proposals for building work on **existing higher-risk buildings will go through the refurbishment process**, each of which will be laid out in building regulations.”

No explanation of the Refurbishment Process

“...for refurbishment applications only, applicants must submit prescribed documents as **they consider appropriate**... further information or documents can be required by the building control authority.”

Language of self-regulation and no further details

“...clause 60... gives a power to the Secretary of State to **prescribe the circumstances** in which the Accountable Person must apply to register **[an existing occupied]** higher-risk building and to set out the period, in regulations, within which the application must be made.”

No further details

CAMPAIGN DEMANDS

- The new system needs to be refocused on existing buildings and how to subject them to tougher regulatory enforcement ASAP
- Existing buildings should be registered NOW and Safety Cases be submitted for approval within 12 months - good landlords / building owners should already have the information ready
- When altered or refurbished, existing buildings should be brought up to the latest regulations where physically possible as part of a broader safety regime that requires improving fire safety rather than simply not making it worse

**START
REGISTERING
EXISTING
BUILDINGS NOW
AND DEMANDING
SAFETY CASES
WITHIN 12
MONTHS**

5. Residents will not be empowered

GOOD NEWS

The Regulator must set up a Residents Panel to advise it

The Accountable Person will be required to:

- develop with residents a Resident Engagement Strategy and publish key safety information
- provide further and more detailed information upon request with exemptions
- resolve residents' safety concerns through internal complaints system with a clear route of escalation to the Regulator

Social housing tenants will be able to go direct to the Housing Ombudsman

New build home owners to have New Homes Ombudsman scheme

BAD NEWS

- Bill no longer has a list of information mandatory to release to residents
- Information can be withheld on broad grounds
- Residents will have long list of legal obligations with new enforcement powers for the Accountable Person
- No clear rights of appeal of residents against Regulator decisions
- No resourcing for resident involvement
- Leaseholders will be forced to pay an uncapped Building Safety Charge within 28 days potentially every 3 months to cover Accountable Person safety costs

CAMPAIGN DEMANDS

- Existing tenants and leaseholder associations must be engaged and resourced to play a full role in the new regulatory system
- If a new legal requirement for residents to co-operate with the accountable person and/or building safety manager is to be introduced, new safeguards will
- be needed to protect residents' rights.
- The Regulator should oversee the use of any legal process so that residents could appeal against any decisions and actions and ultimately seek a Judicial Review against the Regulator
- Residents should be given the same protections as whistle-blowers so they are empowered to speak out
- Any fines imposed by the Regulator should go to a compensation and resource fund for residents

**SCRAP THE
BUILDING SAFETY
CHARGE FOR
EXISTING
BUILDINGS;
GOVERNMENT
MUST FUND
REMEDIATION
AND RESIDENT
INVOLVEMENT**

Lakanal and Grenfell were not one-off events

- 1986: 24-storey block at Royston Hill, Glasgow
- 1990: 16-storey [Merryhill Court](#), Smethwick
- 1991: 11-storey Knowsley Heights in Liverpool
- 1999: 14-storey Garnock Court in Irvine
- 2005: 17-storey Harrow Court in Stevenage
- 2009: 14-storey Lakanal House, Southwark
- 2010: 15-storey Shirley Towers, Southampton
- 2016: 17-storey Shepherd's Court, Hammersmith and Fulham
- 2017: 24-storey Grenfell Tower, Kensington and Chelsea



[Merryhill Court, 1990, spread over 6 floors](#)

Reasons Given for Staying Put, No 1: Harm on the stairs

Fire Officer: Staying Put is safer than leaving, people have died in smoke on the stairs when they didn't stay put.

Me: Why was there smoke on the stairs?

Fire Officer: Compartmentation failure.

Me: If I stay put what is going to keep me safe?

Fire Officer: The compartmentation.

Reasons Given for Staying Put, No 2. Insufficient capacity on the stairs

The Building Regulations 2010

Fire safety

APPROVED DOCUMENT

B

VOLUME 2 – BUILDINGS OTHER THAN DWELLINGHOUSES

Table 7 Capacity of a stair for basements and for simultaneous evacuation of the building

No. of floors served	Maximum number of persons served by a stair of width								
	1000mm	1100mm	1200mm	1300mm	1400mm	1500mm	1600mm	1700mm	1800mm
1.	100	220	340	260	380	300	320	340	360
2.	180	280	280	310	330	360	380	410	430
3.	230	300	330	360	390	420	450	480	510
4.	270	340	370	410	440	480	510	550	580
5.	310	380	420	460	500	540	580	620	660
6.	350	420	460	510	550	600	640	680	720
7.	380	460	510	560	610	660	710	760	810
8.	400	490	540	610	660	720	770	830	880
9.	420	510	560	630	700	760	810	870	930
10.	440	530	580	650	720	790	840	900	960
15.	510	600	640	710	770	840	900	970	1030

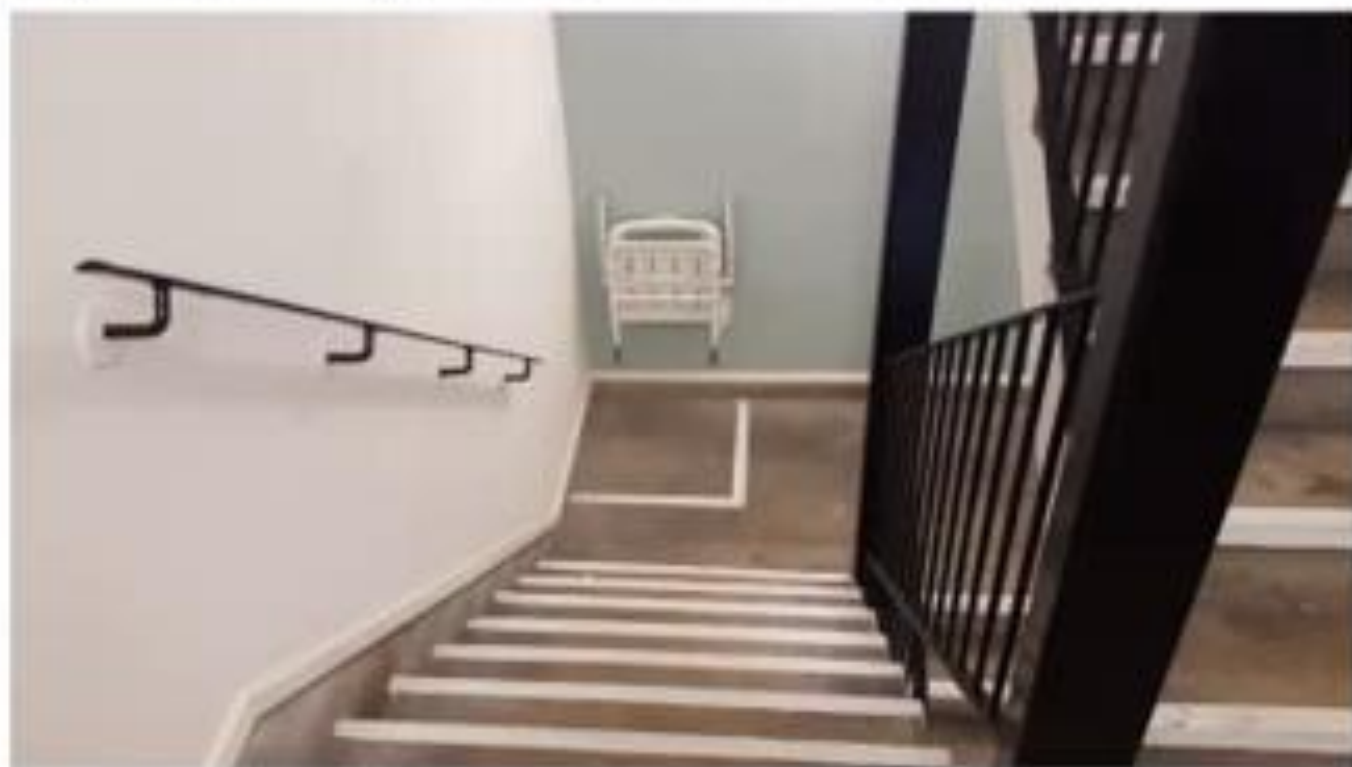
Notes:

- The capacity of stairs serving more than 10 storeys may be obtained by using these relationships.
- The capacity of stairs not less than 1100mm wide may also be obtained by using the formulae in paragraph 4.10.
- Stairs with a rise of more than 300 should not be wider than 1400mm unless provided with a central handrail (see paragraph 4.10).
- Stairs wider than 1800mm should be provided with a central handrail (see paragraph 4.10).

Table 7, Approved Document B : **1,030**

Stairway capacity, 1000mm width, 24 storey single stair high rise residential building

Stairway capacity: 'crushing incidents' do not occur

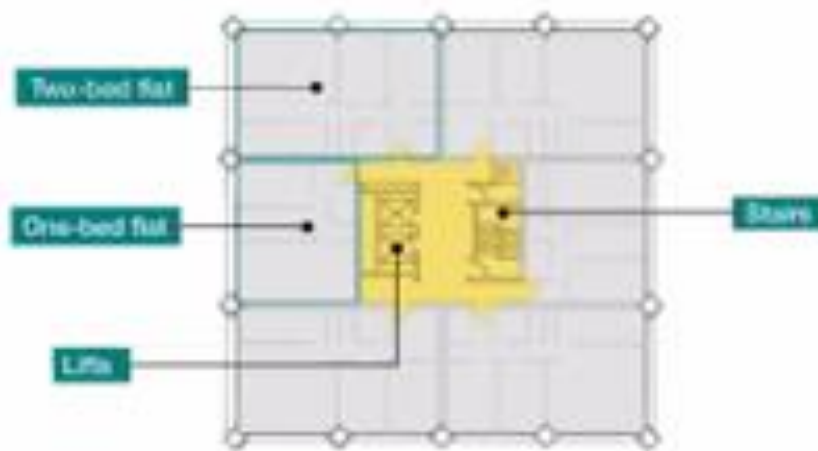


20 steps/ storey = 20 people
2 doglegs/ storey = 10 people

23 storeys = $23 \times 30 = 690$

350

People lived in Grenfell Tower



"Research shows that a density of more than 7 persons / m² can cause turbulence."

Mass evacuation - human behavior and crowd dynamics
What do we know?

Markus Friberg
Michael Hjeltn

Markus Friberg & Michael Hjeltn,
Dept of Fire Engineering, Lund
University, 2014

Assumptions underpinning origins of Stay Put

- Concrete construction, highly effective compartmentation of flats, lobbies and stairwells
- No over-cladding and insulation
- Low combustible environment within flats
- High redundancy / breathing space
- One fire, in one compartment, at one time
- Rapid fire service response times
- Local authority role in planning, design and building control as well as management and maintenance



[Grenfell Tower 2009](#)

After Grenfell: reality of fire safety in PB flats

The Guardian

Manchester: 367 tower blocks failed to meet fire standards after Grenfell

Of 489 Greater Manchester tower blocks, 75% were deemed not to have met safety standards

Hyde found fire safety problems with all 86 of its tower blocks **INSIDEHOUSING**



- Estimated 3000 high-rise blocks with unsafe cladding (700,000+ residents) ([Inside Housing, 2020](#))
- Extent in medium-rise (11m-18m) unknown (out of 100,000 buildings)
- If Barking fire (13.75m, Stay Put policy) had been at night 'we would have woken up to a death toll to rival Grenfell' ([Sam Webb, 2019](#))

Failure to learn from Lakanal: 2011 LGA guide

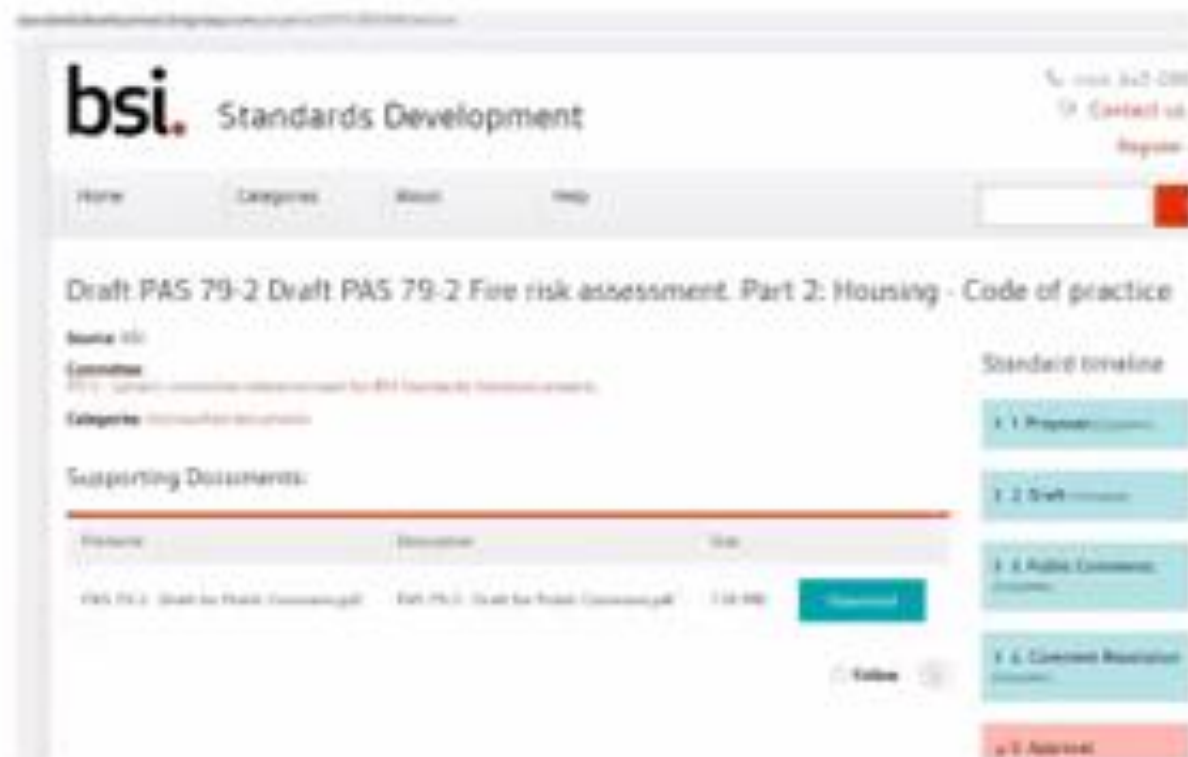
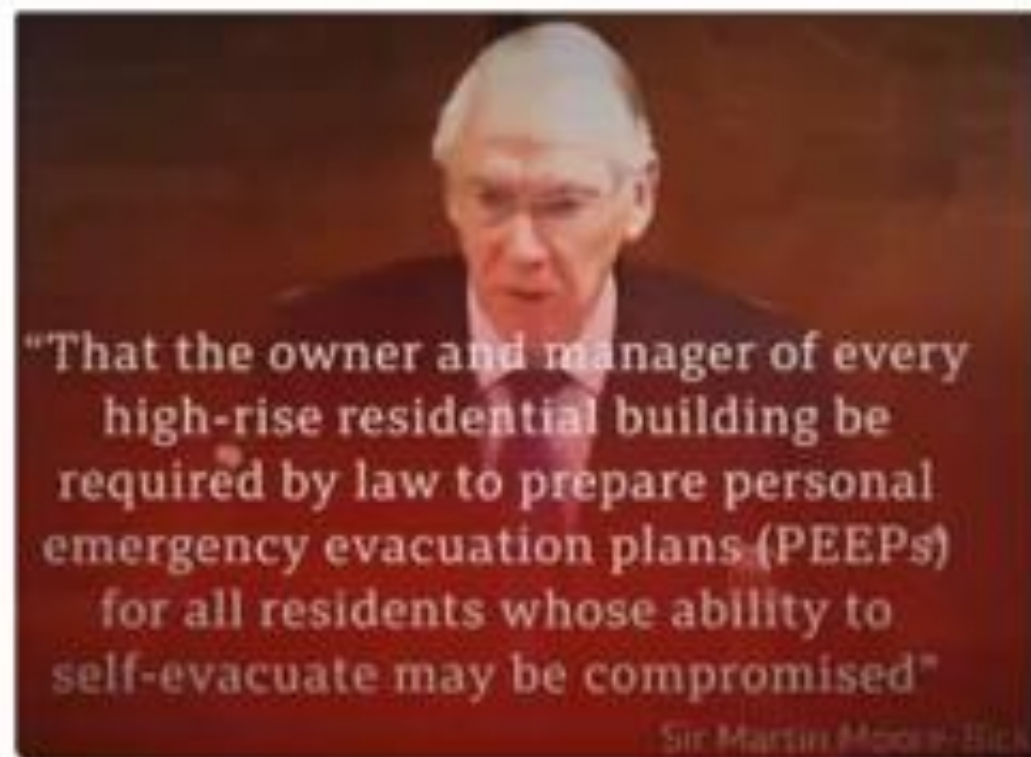
- following Lakanal "emerging issues" report (Sir Ken Knight), DCLG commissioned new **definitive legal guidance** on managing fire safety in purpose-built blocks of flats in England
- [LGA Guide 2011](#) seen as fire safety bible for risk assessors and enforcing authorities: endorsed by Chief Fire Officers Association, landlord bodies, CIH, Tenants Services Authority
- **made no reference to Lakanal:** business-as-usual approach
- Stay Put framed as the default (and indeed only) evacuation strategy for responsible persons to consider due to a misplaced faith in effective compartmentation, supported by a selective reading of fire statistics



Fire safety in purpose-built blocks of flats



He said ... They did...



At the request of the housing sector.

"Nothing in this PAS pre-empts, or is intended to conflict with, any future findings of... [the Grenfell] Public Inquiry"



Oct
2019

Nov
2019

For Review Panel

P45 79-1 and P45 79-2 project overview

Date issued: 22/11/2019

bsi.



Jun
2020

Nov
2020



Evacuation Strategies and Personal Emergency Evacuation Plans

GT Inquiry recommends; high-rise owners/managers be legally required to:

- create and regularly review evacuation plans for every building that are copied to local fire and rescue services and placed on the premises
- prepare personal emergency evacuation plans (PEEPs) for all residents with compromised ability to self-evacuate

Approved Code of Practice for risk assessors (PAS79:2):

- Stay Put remains default "evacuation strategy"
- "wholly unrealistic" for landlords to prepare PEEPs for disabled residents in "general needs" blocks (p.44)

Recommendation:
"The owner and manager of every high-rise residential building should be required by law to prepare personal emergency evacuation plans (PEEPs) for all residents whose ability to self-evacuate may be compromised."

Limitations of Fire Safety Order 2005 and Guidance

Beyond height, the means of escape and firefighting depend on what regulations and GUIDANCE say are required INSIDE the building. Managers/landlords:

- Limit fire alarms
- Dictate evacuation strategy
- Limit fire extinguishers
- Ban door mats
- Encourage zero tolerance over dialogue
- Contradict and limit FSO reach
- Common areas only
- **Zero regard to residents views**



Fire safety in purpose-built blocks of flats



Fire alarms and deregulation

The Regulatory Reform (Fire Safety) Order 2005

UK Statutory Instruments • 2005 No. 1541 • Table of contents

PART 2 FIRE SAFETY DUTIES

8. Duty to take general fire precautions

Meaning of "general fire precautions"

4.—(1) In this Order "general fire precautions" in relation to premises means, subject to paragraph (2)—

- (a) measures to reduce the risk of fire on the premises and the risk of the spread of fire on the premises;
- (b) measures in relation to the means of escape from the premises;
- (c) measures for securing that, at all material times, the means of escape can be safely and effectively used;
- (d) measures in relation to the means for fighting fires on the premises;
- (e) measures in relation to the means for detecting fire on the premises and giving warning in case of fire on the premises; and
- (f) measures in relation to the arrangements for action to be taken in the event of fire on the premises, including—
 - (i) measures relating to the instruction and training of employees; and
 - (ii) measures to mitigate the effects of the fire.

Fire alarms and deregulation

These photos are of inside Torre Ámbar, Calle de Dulce Chacón, 17, Madrid, where the cladding fire was at the weekend. The building evacuated successfully, everybody got out, nobody was hurt - how do you suppose they achieved that?



An advertisement banner for WFP. On the left is a circular profile picture of Paul Field. To his right is a yellow circular award logo for 'LCA' (London Construction Awards) for 'THE SAFETY SOLUTION OF THE YEAR'. Further right is the text 'Paying For Waking Watch? STOP. A Fire Alarm is Cheaper & More Effective.' On the far right is the WFP logo.

Paul Field – Award-Winning Fire Alarm Installer - 1st 🏆
Founder, Educator & Problem-Solver at WFP Fire & Security |
Your Trusted Fire & Security Team

WFP Fire and Security Wire-Free Protection
MMS Sultan

11 high rise blocks
Full alarm systems for 18 months
Not a single false alarm

Reality Check: Why don't all high-rises have sprinklers?

© 15 June 2017



- After a fire at Shirley Towers, Southampton, in 2010, which killed two firefighters, the coroner said: "Social housing providers should be encouraged to consider the retrofitting of sprinklers in all existing high-rise buildings in excess of 30 metres in height."
- In 2005, a fire at Harrow Court in Stevenage, Hertfordshire, killed a woman and two firefighters trying to rescue her. The Hertfordshire Fire and Rescue Service report recommended the UK Fire Service should explore options for high-rise buildings, including the "provision of sprinklers".
- After six people died at Lakanal House in south London in 2009, the coroner said "It is recommended that [the Department for Communities and Local Government] encourage providers of housing in high-rise residential buildings containing multiple domestic premises to consider the retrofitting of sprinkler systems."

<https://www.bbc.co.uk/news/uk-england-40293035>

Sprinklers

Sir Ken Knight, the author of a report on the Lakanal House fire, said that while there was significant evidence of the effectiveness of systems such as sprinklers controlling fire spread in buildings, it was not considered "practical or economically viable" to enforce the retrospective fitting of fire suppression systems to all current high-rise residential buildings.

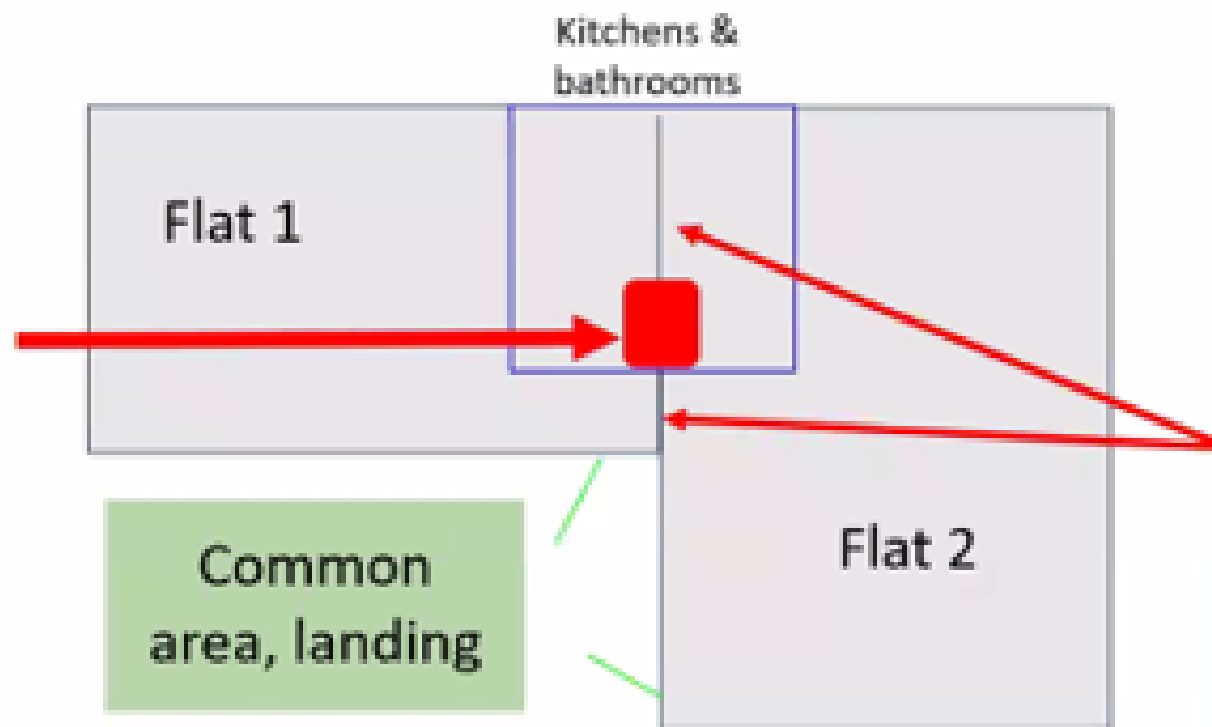
Location	Total System Cost	Cost per Flat/Home	Comments
Carlisle House	£55,134	£1148	5 heads per flat Includes bin store, communal room and office
Wyn House	£80,000	£1150	5 - 7 heads per flat Includes communal areas, bin and cycle store and rooftop pavilion
Sheffield Low Rise	£1,152,450	£1150	8 - 15 heads per home - Includes 1, 2 and 3 bedroom units

“Common Areas” ... limitations, risks, problems

Inaccessible full height service riser taking bathroom & kitchen waste pipes. Not accessible from common area, not considered by under-skilled building managers.

Not checked for 50 years, potential for rapid fire spread to every floor.

Rapid, extended flame, fire spread in full height cavity.



These compartment barriers, the walls between flats, are an integral part of passive fire protection. They should not remain ignored, unchecked and unmonitored for years at a time.

Ascertaining who the Responsible Person is, legislative failure

Fire safety clarity call by father of Sophie Rosser

© 16 September 2012



"Nobody was blamed because the Coroner wasn't sure who the responsible person was", Julian Rosser, father of Sophie, who died at a fire in a block of flats, Maridian Point, Docklands, London, Aug 2012. Corporate manslaughter charges were never brought.

<https://www.bbc.co.uk/news/uk-wales-south-east-wales-29213648>

Summary - Five Points

1. Stay Put as the **default** Evacuation Strategy
2. PEEPs for people that can't self evacuate
3. Fire alarms & sprinklers
4. 'Common' areas
5. Responsible person

Independent Resident Representation