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Scottish Building Standards and Fire Safety: A Brief Overview

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An overview of the Scottish building standards system, with a focus on fire safety, plus details of UK and Scottish reviews of building standards and fire safety launched following the Grenfell Tower fire.



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Introduction

This briefing provides an overview of the Scottish building standards system, with a particular focus on fire safety. It also highlights work being undertaken at a UK and Scottish level in response to the fire at Grenfell Tower.

Grenfell Tower Fire

On 14 June 2017 a fire broke out at Grenfell Tower, a 24 storey residential housing block in North Kensington, London. The fire was reported shortly after midnight and affected the majority of the floors.

The tower was built in 1974 and contained 129 flats. It was estimated to house 350 people on the night of the fire.

A refurbishment of the tower was completed in 2016, including new exterior cladding, replacement windows, heating systems and remodelling of the bottom four floors.

The tower, which provided social housing, was managed by Kensington and Chelsea TMO (Tenant Management Organisation) on behalf of Kensington and Chelsea Borough Council.

The fire appeared to spread rapidly up the building; one form of fire control in tower blocks is normally the control of fires within flats through compartmentalisation. There has been no formal statement on the cause of the fire.

In a statement on 28 June the Metropolitan Police confirmed that 80 people were dead or missing presumed dead following the fire, 67 of whom had been ¹ [formally identified](#) by 27 September 2017. There has been speculation over the cause of the fire, including the impact of the renovations and the fire safety measures in place.

Fires in Purpose Built Flats in Scotland

The Scottish Fire and Rescue Service (SFRS) has ² published statistics on the incidence of fires in purpose built flats which occurred between April 2009 and March 2017. This highlighted that during 2016/17 only 4% of fires in domestic properties attended by the SFRS were in purpose built flats of 10 storeys or more. The number of fires attended in such flats has fallen by 52% between 2009/10 and 2016/17.

[Equivalent statistics](#) for England have been published by the Home Office.

Fire Safety Advice to residents of High Rise Dwellings

The SFRS provides ³ [advice to residents of multi-storey flats](#), with advice on what to do if a fire breaks out in a persons' flat, in another flat or communal area and what do do in the event of becoming trapped.

Scottish Building Standards Legislation

The Building (Scotland) Act 2003 gives Scottish Ministers the power to make building regulations to:

- secure the health, safety, welfare and convenience of persons in or about buildings and of others who may be affected by buildings or matters connected with buildings
- further the conservation of fuel and power
- further the achievement of sustainable development

Building standards are currently set out in the Building (Scotland) Regulations 2004, as amended.

It is worth noting that the Scottish building standards system aims to ensure building work meets the minimum standards of design and construction set out in building regulations. The system operates in the public interest, rather than to protect the interests of individual property owners or developers.

Scottish Building Standards

Building standards are set out in Schedule 5 of the Building (Scotland) Regulations 2004, as amended. Building standards are referred to as "functional standards", in that they describe the functions a building should perform, such as 'providing resistance to the spread of fire'.

The Building (Scotland) Regulations are made by the Scottish Ministers and subject to approval by the Scottish Parliament. The content of the regulations, so far as it relates to technical specifications, is also scrutinised by the European Commission (EC), to ensure compliance with the European Construction Products Directive. The aim being to ensure that no barriers to trade in construction products are created, either directly or indirectly by the way products are described. Materials and construction methods must be described by the use of suitable European Standards wherever these exist.

Scottish Building Standards Procedures

The Building (Procedure) (Scotland) Regulations 2004, as amended, set out the procedures to be followed in connection with the submission of applications for building warrants, completion certificates and other related matters. It also allows Scottish Ministers to appoint individuals and organisations as verifiers and certifiers. It also grants Scottish Ministers powers to approve schemes, operated by third parties - generally construction industry professional bodies, to allow suitably qualified members to act as approved certifiers of design or construction.

Guidance on the implementation of these Regulations can be found in ⁴ The Scottish Building Standards Procedural Handbook.

Technical Handbooks

Detailed technical guidance for architects, engineers and other building industry professionals on how to meet the requirements set out in building standards are provided in technical handbooks, which are published and regularly updated by the Scottish Government. There are separate handbooks for ⁵ domestic and ⁶ non-domestic buildings, reflecting the different requirements for each type of building. A verifier should accept a proposed design if the guidance in the technical handbooks has been followed in full, as this would indicate that the building regulations have been complied with.

While adhering to the advice in the technical handbooks is the normal way of complying with the building regulations, a designer may put forward other ways of meeting their requirements. However, the onus rests with the designer to prove to the verifier that their solution meets the required standards. This may involve testing which, due to the cost, could restrict the use of this option in some cases.

Verifiers

In Scotland all building standards verification is currently undertaken by local authorities. The Building (Scotland) Act 2003 gives Scottish Ministers the power to appoint other organisations as building standards verifiers. To date, Scottish Ministers have not appointed any organisations, other than local authorities, as building standards verifiers.

Building Warrants

Anyone wishing to erect a new building or alter, extend, convert or demolish an existing building normally requires permission from a verifier. Permission is granted in the form of a building warrant. A verifier will grant a building warrant if the proposed work meets the requirements of the Building (Scotland) Regulations 2004, as currently amended. It is an offence to begin work for which a warrant is required without a warrant.

Completion Certificates

Once building work is complete or a building is converted, the property owner or their agent must submit a completion certificate to the verifier. A completion certificate is needed to confirm that a building has been constructed, altered or converted in accordance with the warrant and the Building (Scotland) Regulations 2004. It is an offence to submit a false completion certificate or to occupy a building without a completion certificate being accepted by the verifier.

Reasonable Inquiry

Verifiers are required to undertake "reasonable inquiry" to confirm that building work complies with the details set out in the building warrant, and the requirements set out in

building regulations, before accepting or rejecting a completion certificate. There is no statutory definition of what constitutes "reasonable inquiry". However, it can include site visits, examination of photographic evidence and considering test reports or certificates of construction issued by an Approved Certifier of Construction. The type and amount of any evidence gathering is a matter for the verifier.

It is important to note that inspections carried out by verifiers are to protect the public interest. They do not provide assurance that building work has been carried to meet the requirements of the relevant person (usually the property owner or developer). When submitting a completion certificate to the verifier, the relevant person is required to certify that all the completed work is in accordance with the approved building warrant and meets the requirements of building regulations. This means ultimate responsibility for compliance with building regulations lies with the relevant person. The issue of a completion certificate by a verifier does not remove any responsibility from the relevant person.

Local Authorities Enforcement Powers

Local authorities are responsible for the enforcement of building regulations. The Building (Scotland) Act 2003 gives them formal powers to deal with work or conversions done without a building warrant when one was required. Also, where a building warrant has been obtained, powers to deal with work not done in accordance with the building warrant and building regulations. They also have powers to deal with buildings they consider to be defective or dangerous.

Scottish Building Regulations and Fire Safety

The Building (Scotland) Regulations 2004, Schedule 5, Part 2 set out 15 fire related building standards, the current versions of which are reproduced in Appendix 1.

Scottish Building Standards, Fire Safety and External Cladding Systems on High Rise Buildings

Building Standards 2.4, 2.6 and 2.7 (which are reproduced below) require buildings to be designed so that the spread of fire is inhibited in cavities within a building, on the external walls of a building and between neighbouring buildings.

Paragraph 2.4.4 of the domestic technical handbook deals with external walls, including any associated cavity barrier or cladding systems, and high rise domestic buildings (defined as a domestic building with any storey at a height of more than 18 metres above the ground), which states:

“ In order to satisfy Standards 2.4, 2.6 and 2.7, the external wall, including any associated cavity barrier or cladding system, should be designed and constructed from: a. products that achieve a non-combustible reaction to fire classification in accordance with annex 2.B, or b. achieve the performance levels in BR 135, ‘Fire Performance of external thermal insulation for walls of multi-storey buildings’ when read in conjunction with the test methodology in BS 8414: Part 1: 2002 or BS 8414: Part 2: 2005. However an insulation product need not achieve a non-combustible classification in (a) above where: ”

- the insulation product is located between two leaves of masonry or concrete at least 75mm thick, and ”
- the external wall is provided with cavity barriers around all openings and at the top of the wall-head. ”

Paragraph 2.7.1 of the domestic technical handbook also deals with external wall cladding systems and high rise buildings, which states:

“ **High rise domestic buildings** - external wall cladding used on the external wall of a high rise domestic building should be constructed of non-combustible products. However an insulation product need not achieve a non-combustible classification where:

- the insulation product is located between 2 leaves of masonry or concrete at least 75mm thick, and ”
- the external wall is provided with cavity barriers around all openings and at the top of the wall-head. ”

Alternative guidance - BR 135, ‘Fire Performance of external thermal insulation for walls of multi-storey buildings ⁷’, and BS 8414: Part 1: 2002 or BS 8414: Part 2: 2005 has been updated to include the most up-to-date research into fire spread on external wall cladding. The guidance provided in these publications may be used as an alternative to non-combustible external wall cladding as described above and for materials exposed in a cavity, as described in clause 2.4.7. British Standard (BS) 8414 is a test method developed by the Building Research Establishment (BRE) to evaluate whether a cladding system subject to fire breaking out of an opening (such as a window) in an external wall, will result in excessive fire spread up the outside of the building and the potential for fire to re-enter at a higher level. Such tests are carried out in specialist laboratories, and are performed on full-scale systems (rather than small-scale samples) incorporating; joints and corner details, fixings, insulation, firebreaks, cavities and other elements of the system construction.”

British Standard BS 8414 has been produced to provide a test method for assessing the fire performance of:

- non-load-bearing external cladding systems
- rainscreen overcladding systems
- external wall insulation systems at full-scale when applied to the face of a building and exposed to an external fire under controlled conditions.

The fire exposure conditions have been developed to be representative of an external fire source or a fully-developed (post-flashover) fire in a room, venting through an opening such as a window aperture that exposes the cladding to the effects of external flames.

Scottish Fire Safety Legislation

The fire safety regime in Scotland is principally set out in Part 3 of the Fire (Scotland) Act 2005 and the Fire Safety (Scotland) Regulations 2006 . However, private dwellings are generally exempt for their requirements, with the exception of licensed Houses in Multiple Occupation. There is a statutory requirement for any equipment or facilities provided for the protection or use of firefighters and located in common areas of domestic properties to be maintained.

The SFRS undertake regular (generally quarterly) fire safety and incident planning visits to all high rise domestic buildings, with a view to ensuring firefighters are familiar with their layout, facilities and access arrangements. These visits are solely focussed on the common areas of these properties and do not involve individual flats.

Scottish Ministerial Working Group on Building and Fire Safety

The Scottish Government has created a ⁸ [ministerial working group on building and fire safety](#), which held its first meeting on 20 June 2017, during which the formal remit of the group was agreed as:

“This group will oversee a review of building and fire safety regulatory frameworks, and any other relevant matters, in order to help ensure that people are safe in Scotland’s buildings, and make any recommendations for improvement as required. The initial focus of the Working Group will be on high rise domestic buildings. The Group will also consider other buildings including housing, NHS estate, schools and prisons. The Group will identify and take forward immediate actions in order to provide appropriate reassurance to residents and communities about their safety. In addition the Group will identify medium to long-term actions to be taken forward which will include fire and safety advice, and the adequacy of current fire and building regulatory frameworks. The Group will ensure Parliament is updated and respond to any requests as appropriate. The Working Group will continue to work with UK Government and devolved administrations in taking this work forward. The Working Group will also take technical advice as required in order to inform its considerations.”

The group agreed its work programme at its second meeting, on 28 June 2017. The work programme focuses on nine key work streams:

- Information and intelligence gathering on use of Aluminium Composite Material (ACM) cladding
- Review of building regulations for high rise domestic buildings and high rise non-domestic buildings with sleeping accommodation
- Review of approval and enforcement of building regulations
- Review of fire safety regime and regulatory framework for high rise domestic buildings
- Consultation on revised and consolidated guidance on Fire Safety Risk Assessment of (non-domestic) premises which provide sleeping accommodation
- Overview by Scottish Fire and Rescue Service of their operational assurance visits regarding fire safety in domestic high-rises
- Review of evidence on automatic fire suppression systems (normally known as sprinklers)
- Consultation on smoke and fire detection standards
- Targeted fire safety campaign for high rise domestic properties

The group has met six times to date.

Group Membership

- Angela Constance MSP, Cabinet Secretary for Communities, Social Security and Equalities (Chair)
- Kevin Stewart MSP, Minister for Local Government and Housing
- Annabelle Ewing MSP, Minister for Community Safety

The group also includes officials from the Scottish Government, the Scottish Fire and Rescue Service and HM Fire Services Inspectorate.

English Building Regulations and Fire Safety

Any new build or refurbished building in England must comply with the Building Regulations 2010 (as amended). The technical requirements for new construction that must be met under the regulations are set out in ⁹ [Approved Documents](#). These provide practical guidance on how to comply with the requirements of the regulations, and also reference more detailed British Standards and other guidance.

¹⁰ Approved Document B (2006 edition incorporating 2010 and 2013 amendments) on fire safety covers means of escape, fire alarms, internal and external fire spread, and access and facilities for fire and rescue services.

It is the responsibility of anyone carrying out building work to ensure compliance with the regulations. The ¹¹ UK Government website provides information on when building regulations approval is required. Any major work should be regularly checked by either local authority building control or an independent inspector to ensure compliance. This is a key difference between the Scottish and English systems, with verification work in England being carried out by both local authorities and approved private sector verifiers.

Completed work is then issued with a completion certificate to demonstrate that works meets building regulations. Local Authorities are responsible for enforcement.

Fire Safety Authorities are statutory consultees on fire safety under the regulations. The Government published Buildings Safety and Fire Safety Procedural Guidance in 2007 setting out the steps involved in approving the fire safety aspects of building work.

There have been ¹² [calls](#) to review the building regulations on fire safety following the Lakanal fire in 2009 to take into account new methods of construction. See section 5 for further information.

In the aftermath of the fire the UK Government ¹³ wrote to all building control bodies in England to emphasise the need for any remedial work to address fire safety issues must comply with all aspects of building regulations.

UK Government Independent Review of Building Regulations and Fire Safety

On 28 July the Government ¹⁴ announced an independent review of English building regulations and fire safety, stating:

“ This forward-looking independent review, to be led by Dame Judith Hackitt, Chair of EEF, the Manufacturers’ Organisation, will look at current building regulations and fire safety with a particular focus on high rise residential buildings. It will report jointly to the Communities Secretary Sajid Javid and the Home Secretary Amber Rudd. It will examine: ”

- the regulatory system around the design, construction and on-going management of buildings in relation to fire safety ”
- related compliance and enforcement issues ”
- international regulation and experience in this area.”

The ¹⁵ terms of reference were published on 30 August 2017. The review will publish an interim report before the end of 2017 and its final report no later than spring 2018.

Grenfell Tower Inquiry

A ¹⁶ public inquiry into the fire at Grenfell Tower on 14 June 2017 has been established by the UK Government. The Inquiry will report directly to the Prime Minister. The Chair of the Inquiry is Sir Martin Moore-Bick, who is a retired judge.

The ¹⁷ [Terms of Reference](#) for the Inquiry were published on 15 August 2017.

The Inquiry will produce a preliminary report as soon as possible, which is expected to provide answers to the most urgent questions affecting the safety of tower blocks. The full report will take a while longer, but the Inquiry will work as quickly as it can.

UK Government Building Safety Programme

The UK Government's Department for Communities and Local Government has established a building safety programme which, in addition to replicating some of the work being undertaken by the Scottish Ministerial Working Group on Building and Fire Safety for England, is also providing technical guidance to landlords and building owners and undertaking fire safety tests. Details of this work area available ¹⁸ online.

UK Independent Expert Advisory Panel

The UK government has appointed an expert panel to provide advice to the Secretary of State for Communities and Local Government, on immediate building safety measures following the Grenfell Tower fire.

The independent expert advisory panel, chaired by Sir Ken Knight, has been established to recommend to the UK government any immediate action it thinks that the government should take that will improve public safety and help to identify buildings of concern.

Appendix 1: Scottish Fire Related Building Standards

The fire related building standards set out in Schedule 5, Part 2 of the Building (Scotland) Regulations 2004, which were in force in August 2017, are reproduced below.

Guidance on how to meet these requirements are set out in Chapter 2 of the [domestic](#) and [non-domestic](#) technical handbooks 2017.

2.1 Compartmentation

Every building must be designed and constructed in such a way that in the event of an outbreak of fire within the building, fire and smoke are inhibited from spreading beyond the compartment of origin until any occupants have had the time to leave that compartment and any fire containment measures have been initiated.

Limitation

This standard does not apply to domestic buildings.

2.2 Separation

Every building, which is divided into more than one area of different occupation, must be designed and constructed in such a way that in the event of an outbreak of fire within the building, fire and smoke are inhibited from spreading beyond the area of occupation where the fire originated.

2.3 Structural protection

Every building must be designed and constructed in such a way that in the event of an outbreak of fire within the building, the load-bearing capacity of the building will continue to function until all occupants have escaped, or been assisted to escape, from the building and any fire containment measures have been initiated.

2.4 Cavities

Every building must be designed and constructed in such a way that in the event of an outbreak of fire within the building, the unseen spread of fire and smoke within concealed spaces in its structure and fabric is inhibited.

2.5 Internal linings

Every building must be designed and constructed in such a way that in the event of an outbreak of fire within the building, the development of fire and smoke from the surfaces of walls and ceilings within the area of origin is inhibited.

2.6 Spread to neighbouring buildings

Every building must be designed and constructed in such a way that in the event of an outbreak of fire within the building, the spread of fire to neighbouring buildings is inhibited.

2.7 Spread on external walls

Every building must be designed and constructed in such a way that in the event of an outbreak of fire within the building, or from an external source, the spread of fire on the external walls of the building is inhibited.

2.8 Spread from neighbouring buildings

Every building must be designed and constructed in such a way that in the event of an outbreak of fire in a neighbouring building, the spread of fire to the building is inhibited.

2.9 Escape

Every building must be designed and constructed in such a way that in the event of an outbreak of fire within the building, the occupants, once alerted to the outbreak of the fire, are provided with the opportunity to escape from the building, before being affected by fire or smoke.

2.10 Escape lighting

Every building must be designed and constructed in such a way that in the event of an outbreak of fire within the building, illumination is provided to assist in escape.

2.11 Communication

Every building must be designed and constructed in such a way that in the event of an outbreak of fire within the building, the occupants are alerted to the outbreak of fire.

2.12 Fire and rescue service access

Every building must be accessible to the fire and rescue service.

2.13 Fire and rescue service water supply

Every building must be provided with a water supply for use by the fire and rescue service.

2.14 Fire and rescue service facilities

Every building must be designed and constructed in such a way that facilities are provided to assist fire-fighting or rescue operations.

2.15 Automatic fire suppression systems

Every building must be designed and constructed in such a way that in the event of an outbreak of fire within the building, fire growth will be inhibited by the operation of an automatic fire suppression system.

Limitation

This standard applies only to a building which—

- (a) is an enclosed shopping centre;
- (b) is a residential care building;
- (c) is a high rise domestic building;
- (d) forms the whole or part of a sheltered housing complex; or

(e) is a school building , other than a building forming part of an existing school or an extension to a school building where it is not reasonably practicable to install an automatic fire suppression system in that building or extension .

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