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CIH response to Emergency Evacuation Information Sharing consultation

The Chartered Institute of Housing (CIH) is the independent voice for housing and the home of professional standards. Our goal is simple - to provide housing professionals and their organisations with the advice, support, and knowledge they need. CIH is a registered charity and not-for-profit organisation. This means that the money we make is put back into the organisation and funds the activities we carry out to support the housing sector. We are a registered charity with a Royal Charter, which means that our work is always focused on the public interest. We have a diverse membership of people who work in both the public and private sectors, in 20 countries on five continents across the world. Further information is available at: www.cih.org.

We have written our response following consultations with CIH members, housing and disability rights representatives and the National Housing Federation.

Overview of our response

It is a fundamental objective of the housing sector to ensure that all residents are safe and feel safe in their homes. The tragic fire in the Grenfell Tower highlighted significant safety issues in the structure and management of high-rise buildings. We welcome the steps taken by government and the sector in the five years since the fire to make improvements to fire safety, particularly the significant success in removing unsafe ACM cladding from social housing blocks.

However, substantial steps still need to be taken to improve the safety of disabled and mobility-impaired residents in high-rise buildings. Disabled and mobility impaired residents have an equal right to be and feel safe in their own homes. This includes people with a range of support needs, including people with hidden disabilities and impairments, people with sight or hearing loss, people with cognitive impairments, people with substance misuse problems etc. For ease of reading, we will refer to this group of people

throughout our response as “disabled residents” but would stress the importance of recognising the full breadth of support needs which must be considered in these proposals.

The best way to ensure that disabled residents are and feel safe in their homes is to engage residents in discussions about their own safety. In our view, these proposals are insufficient to ensure the safety of disabled residents in high-rise buildings and therefore would not support landlords to meet their existing health and safety obligations.

The law states that ‘Responsible Persons’ must take reasonable steps to ensure that their residents would be safe in the event of a fire and that they could evacuate should they need to do so. In simultaneous evacuation buildings, where residents’ safety relies on being able to leave the building in the event of a fire, Responsible Persons must take reasonable steps to ensure that all residents can evacuate. This must include disabled residents. We believe the only way to achieve this is to offer a Personal Emergency Evacuation Plan (PEEP) to all residents who would not be able to evacuate by themselves independently, and to take reasonable steps to make any adjustments needed. By this we mean having a conversation with disabled residents to identify any potential barriers they would face in evacuating the building and then taking reasonable steps to address these. This could include assistance from family, friends or neighbours, although we acknowledge that details of how this would work in practice would need to be explored further. We welcome the Home Office’s commitment to convene a stakeholder working group, including disabled residents, to consider this in further depth. The final outcome of these proposals should factor in the results of this working group.

If reasonable adjustments could still not ensure that a disabled resident would be able to evacuate in a simultaneous evacuation building, social landlords should consider making an alternative offer of accommodation. This should only be in consultation and agreement with the resident. We recognise that this will have implications for the allocation of affordable properties, and that this would add further pressure onto the already limited supply of affordable accessible properties. However, this does not mean that we should accept disabled residents living in properties which are not safe for them in the event of a fire. Rather it should be taken into consideration in prioritising further development of affordable and accessible homes.

Furthermore, we also believe Responsible Persons must take steps to engage with disabled residents in stay put buildings. Although in these buildings residents should be safe in their own apartments if a fire started elsewhere in the building, they would still need to know what to do if a fire broke out in their own apartment. We also recognise that many residents may now question whether they would remain safe in their own apartment if a fire broke out elsewhere in the building, and particularly worry about their safety if they are unable to evacuate independently. We believe that Responsible Persons should take reasonable steps to have conversations with disabled people in stay put buildings, to discuss fire safety risks in their own apartments, how they could remain safe in the event of

a fire, and whether any reasonable adjustments could and should be made to keep them safe. Having these open conversations should help residents to understand the best steps to ensure their safety and, we expect, to place greater trust in stay put policies. Without having these conversations, we do not believe that Responsible Persons could justify how they have taken reasonable steps to keep these residents safe in the event of a fire. If any people in a stay put building would be unable to evacuate without support, this information should be shared with the local Fire & Rescue Service in the event that a fire occurs in a disabled resident's apartment or they need to oversee an emergency evacuation.

For this to work, the sector will need clear guidance from the government on what actions are 'reasonable' to support the safety of disabled residents and to help them evacuate if needed. We would also stress that the building defects which have prompted these fire safety concerns for disabled residents have mostly developed due to historically weak building safety regulations. Government should accept the role their regulations have played in allowing this environment to develop and take steps to ensure there is sufficient funding for the remediation works necessary to resolve safety issues in high-rise buildings. This is a sector-wide issue and will therefore require a comprehensive, cohesive sector-wide response.

CIH response to consultation questions

Question 1: Do you agree or disagree that the initial change in legislation should be focussed on the buildings with the greatest fire safety risk i.e. buildings with simultaneous evacuation strategies in place?

Response: Neither agree or disagree

It is important to prioritise introducing enhanced safety measures in the buildings with the greatest fire safety risk, particularly those with simultaneous evacuation strategies. However, we do not believe that the proposals, as stated, are sufficient to meet Responsible Person's duties under the Regulatory Reform (Fire Safety) Order 2005 (Fire Safety Order) and the Equality Act. Responsible Persons must take reasonable steps to ensure that disabled residents can evacuate in the event of a fire in simultaneous evacuation buildings. We believe that a PEEP would be required to ensure that disabled and mobility impaired residents have a workable plan to evacuate the building, once reasonable adjustments have been made.

We also believe that some level of direct engagement would be required with disabled residents in stay put buildings. Without this, landlords would not have sufficient information to assess what reasonable measures would be necessary to ensure disabled residents would be safe if a fire broke out. This is particularly important because many residents may have legitimate concerns about whether they can trust that they will be safe staying in their apartments in the event of a fire. Landlords must make sure all residents have the information they need to be reassured and accept a stay put strategy. By having

a conversation with disabled residents, explaining the justification for the stay put strategy and discussing any outstanding concerns about that person's safety in the event of a fire, landlords would be taking reasonable steps to ensure their safety. Residents in stay put buildings should therefore be offered a person-centred fire risk assessment (PCFRA) as described in these proposals. This could potentially result in a PEEP if this was deemed a reasonable step for guaranteeing their safety.

We recognise that completing this engagement with residents in all simultaneous evacuation and stay put buildings will require a considerable amount of work. We would accept additional requirements being brought in earlier for buildings with the greatest fire safety risk, e.g. buildings with simultaneous evacuation strategies first and then following a staged timeline for stay put buildings. However, we do not think the potential of fire safety risks in other buildings can be overlooked. Changes brought in through the Fire Safety Act and the Building Safety Act will mean that more fire and building safety issues are identified and resolved. Nevertheless, it is important to note that these do not provide equal assurance for all buildings, for example buildings between 11 and 18 metres tall which do not fall under the enhanced safety regime of the Building Safety Act.

Question 2: Do you agree or disagree that the toolkit, as described, would be a suitable resource to support Responsible Persons in fulfilling their duties under the Regulatory Reform (Fire Safety) Order 2005?

Response: Strongly disagree

Whilst a toolkit would assist Responsible Persons to consider the approaches available to them for improving fire safety in their buildings, as described it would give no guidance on what they are legally required to do. It is our view that landlords would have an obligation under the Fire Safety Order to take steps to identify fire safety risks for disabled residents in stay put buildings and to discuss and implement reasonable measures to keep them safe in the event of a fire, as described in the PCFRA proposals. They also have an obligation to ensure that disabled residents in simultaneous evacuation buildings can safely evacuate, which we believe would necessitate a PEEP.

The government must make clear with any toolkit or other resource provided what legal weight it carries and what obligations it sets out for landlords. It could be confusing to have a toolkit setting out good practice without also providing clear details of what is an obligation for Responsible Persons.

Any guidance provided must also provide clear and consistent principles to help guide Responsible Persons' decisions, setting out their legal responsibilities clearly and providing guidance on what reasonable steps they should take. This should allow Responsible Persons to adapt as best suits the individual circumstances of their buildings and emphasise the need to reach decisions in conversation with residents, as they are best placed to judge what support they need.

Question 3: Call for evidence - Are you aware of any initiatives that enhance the fire safety of mobility impaired residents, that could be considered for inclusion as case studies in the toolkit?

As we have stated in previous consultation responses, the most effective way to improve fire safety in high-rise buildings is to invest in prevention and suppression measures. The government clearly recognises the importance of whole-building measures, having made sprinkler systems mandatory in all new high-rise blocks over 11m tall. We appreciate that retrofitting such measures to existing buildings would be complicated and expensive, and potentially not possible in all such buildings. However, the current system clearly results in older high-rise buildings having poorer safety measures than new build blocks. A less burdensome approach to enhance the fire safety of disabled residents could be to introduce in-flat suppression measures in their individual apartments.

We would emphasise that all initiatives must only be implemented following open conversations with residents and with their agreement. Residents are best placed to judge what support they would need and what measures would work best for them.

We have heard from several organisations which already effectively deliver initiatives similar to the PCFRA model as described in this consultation.

Question 4: Do you agree or disagree that the proposed identification process laid out above i.e. the Responsible Person asking residents to self-identify (when resident first moves in, comms to all residents on an annual basis and via residents coming forward themselves outside of those times) strikes the right balance of responsibilities between a Responsible Person and an individual resident?

Response: tend to agree

We agree that the proposed approach is sensible and, when implemented effectively, should result in identifying most people who may need support to evacuate. The emphasis on self-identification does strike the right balance of responsibilities, as long as Responsible Persons can evidence that they have taken reasonable steps to prompt self-identification as described in the proposed process. We would encourage the government to work with disabled residents to develop the details of this approach.

Some groups of residents will be harder to reach through this process. We anticipate challenges in reaching leaseholder residents, particularly those who sublet from leaseholders. Government should consider how legislation can be used to ensure that leaseholders pass on critical safety measures and communications to subletting residents, and engage in this process. Government must also provide guidance on where

responsibility and potential liability would lie where there are multiple layers of management or several landlords operating in the same building.

Furthermore, annual communications may not be regular enough to prompt conversations with people who have temporary impairments. We would encourage building owners to take every opportunity to reach out to residents. Staff conducting routine visits (tenancy checks, gas and safety inspections etc.) should be trained to recognise factors which might mean people could not evacuate without assistance and know the process to follow to then prompt a fire safety conversation with the resident.

The tone of communications must also be considered to make this an effective model. It is vital that communications are open and carefully considered to build trust with residents. Some residents may be unwilling to share details of their impairments/ conditions with their landlords, so Responsible Persons must emphasise that this information will only be used to keep residents and their neighbours safe in the event of a fire. Additionally, it is important that all residents understand the information shared with them; this may require providing the information in other languages or formats.

However, we would argue that this process is also necessary in stay put buildings, where disabled residents may still experience a fire in their own home. Under the Fire Safety Order, Responsible Persons are required to take “reasonable” steps to ensure residents are safe in the event of a fire. They must be able to evidence that these steps were reasonable, based on a robust risk assessment. This can only be completed with a consideration of the individual circumstances of each disabled resident, as in the PCRFA process.

Question 5: Do you have any additional comments on the proposed identification process as laid out in step 2 above?

We note that the Building Safety Act introduces a requirement for a resident engagement strategy in all buildings over 18m tall, which must include engagement with disabled residents. It also requires Responsible Persons to ensure that all residents aged 16 and over understand critical safety information in their building. It is important, when further detail is provided on these requirements, that it aligns with the requirements established by the Home Office to support emergency evacuation. We also think the government should recommend these elements of the Building Safety Act as good practice to people managing high-rise buildings under 18m tall.

Question 6: Do you agree or disagree that this approach is a viable way to identify fire safety risks, including barriers to evacuation?

Response: tend to agree

We agree that this approach, of completing a person-centred fire risk assessment (PCRFA) through an open discussion with disabled residents, would be a viable way of identifying fire safety risks. Residents are best placed to understand their own circumstances and which measures will work for them, so it is important that they are given the opportunity to meaningfully shape the measures which are implemented to enhance their safety. We would stress that it is important that the staff members conducting these PCRFA's are competent and suitably trained. The sector would benefit from the government providing clear competency requirements for the individuals completing these assessments.

Question 7: Do you agree or disagree that this approach is an adequate way to identify suitable measures to mitigate against fire safety risks, including barriers to evacuation?

Response: strongly disagree

We do not believe that these proposals provide sufficient guidance as to what constitutes a 'reasonable measure' and therefore what Responsible Persons must do to ensure that disabled residents in simultaneous evacuation buildings can evacuate in the event of a fire, as they must do under the Fire Safety Order. In our view, this is only possible through the completion of a PEEP. In many cases this may not require complicated or expensive adjustments, or could be achieved through the assistance of friends, family or neighbours. But disabled residents can only gain assurance that they will be able to evacuate in the event of a fire if they have had a full and open conversation with building staff and know that there is an agreed approach to support them. A PCRFA, as described, would not provide an adequate level of assurance that a disabled resident would be able to evacuate.

If in-flat prevention/suppression measures are not suitable, and evacuation without the assistance of the Fire & Rescue Service would only be possible for some disabled residents through the provision of a full-time, trained member of staff, then the resident and Responsible Person should discuss whether their accommodation is appropriate. Social landlords should consider making an alternative offer of accommodation, where possible. We recognise that this will have implications for the allocation of social rented properties, and that this would add further pressure onto the already limited supply of affordable accessible properties. However, this does not mean that we should accept disabled residents living in properties which are not safe for them in the event of a fire.

Question 8: Do you foresee any issues with the provision of a PCRFA checklist (by the Responsible Person) AND the provision of a home fire safety visit from the Fire & Rescue Service?

We do not foresee any issues that could not be overcome by clear guidance and effective information sharing. There would need to be effective information sharing and record keeping so that the Responsible Person receives details of any relevant recommendations

from the home fire safety visit. The sector would also need clear guidance on what actions would be required following a home fire safety visit, how any additional measures it identifies would be funded, and how to balance any recommendations which conflict with their PCRFA.

Question 9: Do you agree or disagree that this approach is sufficient to allow the Fire & Rescue Service to execute an emergency evacuation, if required?

Response: neither agree or disagree

We believe this question is best answered by representatives from Fire & Rescue Services. The responding Fire & Rescue Service would need sufficient time to consider information about disabled residents who may not be able to evacuate without support and build this into their plan for dealing with the fire, even if this is restricted to floor and flat number. Therefore, it is vitally important that they have access to this information as early as possible. The (secure/confidential) digital sharing of information would support this; government should set a deadline by which all Fire & Rescue Services must have the capacity to receive information digitally and provide the necessary financial support to ensure this deadline is met.

In some cases, we believe additional information about the nature of disabled residents' support needs during an emergency evacuation could potentially be useful to the responding Fire & Rescue Service, but only if they had sufficient time to consider that information before responding. We note that sharing such information would have additional data protection implications, but believe this could be justifiable with individuals' consent if the information would be of use during an emergency evacuation.

As we have stated above, we believe it would be necessary for Responsible Persons to complete PCRFA's in stay put buildings. This should include sharing information about residents who would need support from the Fire & Rescue Service in the event of a rescue.

Question 10: What are your views on the use of the information by FRSs, including to support the emergency evacuation of mobility impaired residents?

See our response to question 9 - we believe this is best answered by representatives from Fire & Rescue Services. To date, the role of Fire & Rescue Services has been to conduct emergency rescues as needed, not to routinely support full evacuations. If it is expected that any additional requirements will be placed on Fire and Rescue Services during emergency evacuations, then it is important that they are adequately staffed and resourced to do so. This may require additional new burdens funding from the government.

Question 11: Do you have any additional comments on the EEIS proposal as laid out in Steps 2 - 5 above?

Please see our covering statement above.

Question 12: Do you agree or disagree that the addition of this on-site individual adds enough value to the EEIS proposal to justify the associated costs?

Response: tend to disagree

We recognise that the provision of 24/7 on-site staffing would not be proportionate or practical in most buildings. Assisting with a full evacuation may require multiple staff members, as staff employed by a landlord would not be able to re-enter a burning building once they have left. Such permanent staffing would introduce costs that could not be absorbed by most landlords and would therefore result in burdensome costs being passed on to residents through service charges. Building owners would also need to consider more than just staffing costs; on-site staffing would require facilities such as office space and restrooms to be available which may not be practical or possible.

It may be possible to have on-site staffing as a temporary measure, in a similar manner to waking watches. But this should only be used as an emergency, interim measure while necessary remediation works are being completed to fix building safety defects.

Question 13: Call for evidence - We are interested in examples of PEEPs in residential buildings, but which fully or partially avoid the concerns over safety, proportionality and practicality.

We do not have any sufficiently detailed examples to share.

Question 14: Call for evidence - We are also interested in examples of buildings where staff have been installed on-site to support the enacting of PEEPs or other fire safety initiatives (outside of waking watch). Are you aware of any such examples?

We have been informed of a couple of social landlords who enact PEEPs with staff support in simultaneous evacuation buildings. This is a temporary measure introduced while remediation work is being completed to resolve fire safety issues with the building. One of these buildings has an evacuation manager who would be responsible for passing information to the Fire & Rescue Service to assist their oversight of the evacuation in the event of a fire. The staff directly supporting the enacting of individual PEEPs are fire wardens. These wardens would only be able to support people in one exit of the building; they would not re-enter the building.

Question 15: Call for evidence - Are you aware of any other initiatives for how mobility impaired residents can be made safer in their homes or be evacuated from a high-rise residential building in a way which is safe, proportionate and practical?

Please see our response to question 3.

Question 16: Call for evidence - Do you have any evidence on the numbers of residents in your building(s) who are mobility impaired and would likely have difficulty self-evacuating?

We do not have any specific data on the number of residents in our members' buildings who are mobility impaired and would likely have difficulty self-evacuating. We would also state that not only mobility impaired residents, but other disabled residents may require support to evacuate and should therefore be considered in the scope of all questions in this consultation.

Question 17: Do you agree or disagree that the provision of separate evacuation plan documents should be focussed on the buildings with the greatest fire safety risk i.e. buildings with simultaneous evacuation strategies in place?

Response: tend to agree

We agree that the provision of separate evacuation plan documents would be useful and most beneficial in buildings with simultaneous evacuation strategies. However, we need further clarity on what information would be provided in these documents.

Question 18: Do you have any further comments on the proportionality of applying the EEIS proposal and the requirement to create separate evacuation plan documents, only to simultaneous evacuation buildings at this time?

Please see our opening statement. We would also stress that it is important not to delay excessively in bringing new requirements into force. It is already five years since the Grenfell fire. That means that many disabled residents in high-rise buildings have lived for five years with heightened concerns about their safety in the event of a fire. We know that this has caused significant stress and uncertainty for disabled residents in high-rise blocks. It is important that any new requirements are thought through and developed in consultation with key stakeholders, but we must avoid any unnecessary further delays.

Contact:

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