

SAFEGUARDING

Schools as
safe havens

BLUE LIGHT

Emerging
police risks

HOUSING

Building
with Brexit

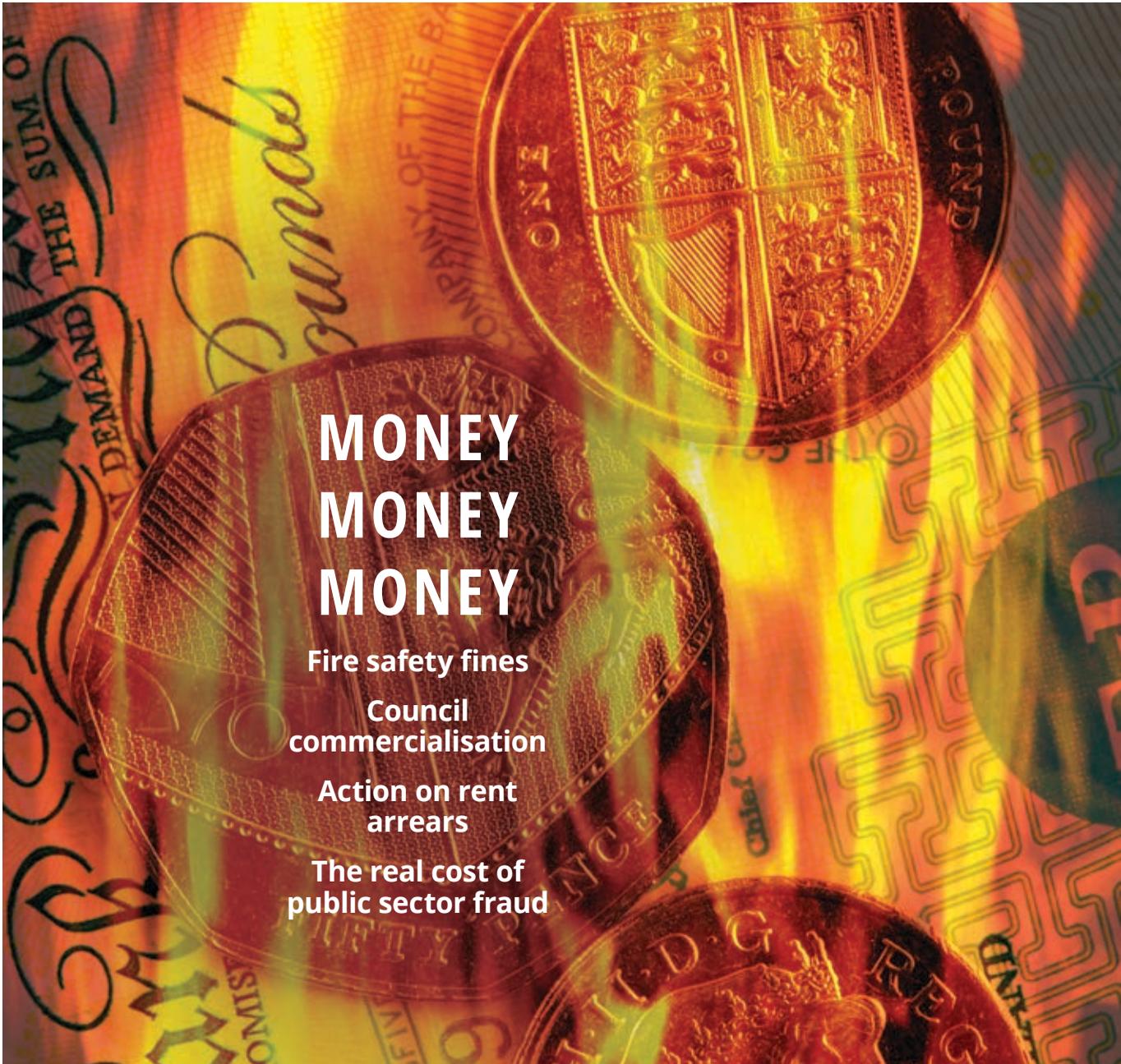
TECH TALK

Electric
road vehicles

stronger

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MONEY MONEY MONEY

Fire safety fines

Council
commercialisation

Action on rent
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The real cost of
public sector fraud



Fighting FIRE with fines

Financial penalties are being hardened to improve fire prevention and fire safety measures in buildings.

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Even before the tragedy at Grenfell Tower on 14 June 2017, there could be no doubt that no limit can be put on the personal costs of a fire. The Government has now stated the same can be said for the financial costs.

On 17 March 2021, the Home Office announced that building owners could face unlimited fines following new measures being brought in to strengthen fire safety. A fine will punish anyone caught obstructing or impersonating a fire inspector, as well as those who breach fire safety regulations under the *Regulatory Reform (Fire Safety) Order 2005 (RRO)*.

As well as noting the changes to the *RRO*, public service organisations are advised to have regard to other changes implemented earlier this year (see page 12) which provide helpful guidance on meeting fire safety obligations. ➤

Changes to the RRO

New measures include a requirement for fire risk assessments to be recorded for each building, plus improvements on how fire safety information is handed over throughout the lifetime of a building. Changes will be brought into effect through the *Fire Safety Act 2021*, which will complement the *Building Safety Act* (once that has passed through parliament and has received royal assent) together with building regulations fire safety guidance.

The new legislation could lead to a significant increase in financial penalties for breaches. This follows a general trend in health & safety cases, given the steep rise in fines ordered for breaches of the *Health and Safety at Work Act 1974* and associated regulations. This follows the introduction of the *Health and Safety Offences, Corporate Manslaughter and Food Safety and Hygiene Regulations Definitive Guidelines (Guidelines)* on 1 February 2016. More than five years on, we can see clearly the impact of the *Guidelines*, which is an unequivocal increase in fines, reported to have gone up by 450% by the Sentencing Council in its assessment of the *Guidelines*¹.

Sentencing for RRO offences

Fire safety cases were specifically excluded from the *Guidelines*. The Sentencing Council explained this on the basis that applying the factors in the *Guidelines* to offences involving risk of fire had the potential for distorting sentence levels. That said, in the case of *R v Sandhu [2017] EWCA Crim 908* the Court of Appeal held that the *Guidelines* provided a useful analogy when sentencing for RRO offences to ensure the sentence was not either manifestly excessive or unduly lenient. As such, reference is often made to them in fire safety cases.

Even before the *Guidelines* and this most recent announcement, some hefty fines had been issued for breaches of the RRO; the fine ordered to retailer New Look of £400,000 in 2010, being one example. This followed a fire in the Oxford Street store in 2007, to which New Look pleaded guilty to two breaches of the RRO (insufficient staff training and storage blocking escape routes).

Given the fines already issued for these breaches, only time will reveal whether these changes will have any real impact. That said, what is certain is that fines will not be decreasing.

Fire risk in health and social care settings

Changes to the RRO coincided with the publication of the *Social Sector (Building Safety) Engagement Best Practice Group report* issued in March 2021. This explores effective engagement with residents in social housing.

The group sets out in the report what they

have found effective engagement to look like:

- Landlords should repeatedly remind residents of the recommended course of action in the event of a fire to familiarise them with the advice. It is not sufficient to inform residents of fire safety policies once, at sign-up.
- Approaches to convey fire safety messages and evacuation procedures need to be accessible to all. They must consider the neurodiversity

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of residents' needs, learning styles and preferences. Lack of internet access and poor digital literacy are also barriers to be considered when assessing the likely impact of any video campaign.

- Engagement between residents and landlords that is open, honest and is receptive to the concerns of both sides is most likely to deliver successful (and cost-efficient) outcomes. The landlord should facilitate that positive environment.
- A key factor to successful engagement is finding what also works for those who are difficult to reach and ensuring approaches are flexible enough to facilitate different routes; for example, written advice, personalised letters, videos, infographics.
- Working with key stakeholders and trusted voices within the community leads to successful resident engagement.

While the focus of the *Report* is the social housing sector, the principles apply equally to other areas in the public and private sectors.

In addition, the Care Quality Commission (CQC) and the National Fire Chiefs Council (NFCC) agreed a



Memorandum of Understanding (MoU) to safeguard the wellbeing of the public receiving health and social care in England. The overriding objective of this MoU is to reduce fire risk and improve protection for people in receipt of health and social care services.

To achieve this objective the following is set out in the MoU:

- Each fire & rescue service (FRS) may share information about fires and other relevant incidents at locations that fall within CQC regulation and in premises where services being provided are CQC regulated (such as private dwellings).
- Each FRS may provide technical, regulatory and legislative fire safety advice.
- The CQC may share address information about locations that fall within CQC regulation and care services providers.

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Fire safety responsibility and health & safety regulation

Most organisations are well versed in their health & safety responsibilities and quite rightly place this high on the business agenda.

It is essential that fire safety is included, by:

- Obtaining fire safety advice from a qualified source.
- Ensuring risk assessments are carried out and control measures are implemented.
- Having documented policies and procedures.
- Ensuring employees receive adequate fire safety training and information.
- Measures to report, audit and review the efficiency of fire safety management systems.

In seeking to meet these objectives the parties are encouraged to, among other things:

- Provide regulatory information, (such as enforcement outcomes) and support each other in their regulatory and enforcement roles, where appropriate.
- Share good practice, consider collaborative research, and work together to collectively influence policy and working practices where relevant.
- Encourage closer liaison at a local level and a consistent service delivery.

It is hoped these measures will prevent a recurrence of the tragedy of Grenfell. ●

References

¹*Health and Safety Offences, Corporate Manslaughter and Food Safety and Hygiene Offences: Assessment of guidelines*, Sentencing Council

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