

Appendix A: Proposed Building Regulations changes and the Building Safety Bill.

1.0 Introduction

1.1 In the summer of 2019, the government published proposals for reforming the building safety system. The proposals were driven by the recommendation of Dame Judith Hackitt's 'Building a Safer Future' report into building and fire safety, following the Grenfell Tower tragedy. On 2nd April 2020 the MHCLG published its response to the consultation which sets out the Government's proposals for a reformed building safety system, covering the performance of all buildings, as well as the management of fire and structural safety in new and existing buildings in scope. These proposals will be included in a new Building Safety Bill later this year.

Key recommendations

2.0 The Building Safety Regulator

2.1 Currently an applicant can choose which Building Control Body will act as the regulator to check compliance with Building Regulations, through the design and construction stages. A Building Control Body could be the Local Authority Building Control or a private registered Approved Inspector. Approved Inspectors are regulated by the Construction Industry Council Approved Inspector Register and are independent from the council.

2.2 Within her report Dame Judith Hackitt highlighted flaws in this appointment system as it could lead to an overall reduction in compliance with building standards as Building Control Bodies competed for market share and income

2.3 In January, the government announced their intention to establish for England a new, national Building Safety Regulator (BSR) within the HSE and has already implemented this in shadow form. The Government will remove the ability of the developer to choose which building control body oversees the construction or refurbishment of in-scope buildings.

2.4 Under the new regime, the BSR will take the role of the Building Control Body and be legally responsible for regulating in-scope buildings in respect of the Building Regulations. The BSR will be supported by local regulators:

'The skills, expertise and capacity of local authority building control will provide the main support for the new regulator complemented by Approved Inspectors where required. Approved Inspectors may also develop separate consultancy services to support duty-holders. Safeguards will ensure there are no conflicts of interest.'

2.5 The BSR will be able to issue 'stop', 'compliance' or 'improvement' notices and breach of any of these will be a criminal offence. The BSR will replace the Building Regulations Advisory Committee with a new oversight structure.

3.0 Buildings in scope and duty holders

3.1 All multi-occupied residential buildings of 18 metres or more in height or six storeys (whichever is reached first) will be in scope of the new regulatory regime.

The regime is likely to be extend to other premises in due course, based on emerging risk evidence.

3.2 A gateway system will apply to all in scope buildings and any construction project will have to meet the regulatory requirements of each gateway before work can take place for that stage.

3.3 A system of duty-holders, who have clear responsibilities at each stage of the building's lifecycle will be created. During design and construction these will be as identified by the CDM regulations and can be an individual or organisation. There will be an independent review every five years to assess its effectiveness. The BSR will establish a national register of buildings in scope. The new regime will also apply to existing occupied in-scope buildings through a transition period that starts with the highest risk buildings first

3.4 The following gateways will be adopted

Gateway 1: Before planning permission is granted, fire safety issues which impact on planning should be considered, including emergency fire vehicle access to a building and whether there are adequate water supplies in the event of a fire. To aid the local planning authority in their decision as to whether to grant planning permission, the developer will be required to submit a Fire Statement setting out fire safety considerations specific to the development with their planning application.

Gateway 2: Before commencement of work on site, the applicant will be required to submit key information to the Building Safety Regulator demonstrating how they are complying with building regulations through the submission of full plans, the construction control plan, fire and emergency file, and other supporting documentation that will help the assessment team determine whether the application meets the building regulations requirements and that the duty-holder has sufficiently demonstrated that they are managing building safety risks.

Gateway 3: Before occupation of the building at the final completion certificate stage under the building regulations. Again, the Building Safety Regulator will provide the building control function working with local regulators. At this stage, the applicant will be required to submit to the Building Safety Regulator information on the final, as-built building. This will include:

- updated as-built plans indicating any agreed variations since Gateway 2.
- a complete construction control plan.
- an updated fire and emergency file.

4.0 Construction products

4.1 A UK wide Construction Products Regulator will be set up responsible for market surveillance and oversight of local enforcement action (and national enforcement when appropriate), maintaining a national complaints system and supporting local Trading Standards. It will also provide technical advice and support to the industry and Government. In addition, a Construction Products Standards Committee (CPSC) will be formed comprised of technical experts and academics to advise the Secretary

of State on product standards, the effectiveness and accuracy of current tests and ways to improve the testing regime.

5.0 Competence

5.1 The government will introduce a consistent approach to assuring competence across LABC and Approved Inspectors. To oversee the longer-term development of competence frameworks, the Government will establish a new industry-led committee hosted by the BSR to continue the momentum of the industry's Competence Steering Group.

5.2 The BSR will oversee the performance of all Building Control Bodies and will have powers to intervene in cases where services are failing to meet standards. A unified professional structure and standards will be developed for building control – under a single oversight body covering both local authority staff and Approved Inspectors. It is likely that there will be mandatory competence standards not only for the Building Control Bodies but for the individuals working within Building Control; perhaps with a 'license to practice.'

5.3 The legislative framework for the building control profession will be included in the Bill with practical details about the administration of the profession developed by the BSR or a body designated by the BSR in discussion with building control professionals, bodies and their representatives.

6.0 Buildings in occupation, the Building Registration Certificate and safety case

6.1 For each building in scope the BSR will issue a Building Registration Certificate (BRC) – without it the building cannot be occupied.

6.2 The Accountable Person – the new duty holder for occupation, will be responsible for applying for and meeting the conditions of the BRC following the passage of Gateway 3. If appropriate this could be partial occupation. The Accountable Person will be the individual, partnership or corporate body with the legal right to receive funds through service charges or rents from building residents. The Accountable Person will be required to appoint a competent Building Safety Manager, approved by the BSR.

6.3 The Building Safety Manager will be required to:

- Keep the safety case up to date to show they understand the fire and structural risks in their buildings and are mitigating and managing them
- Store this information in the golden thread
- Update the safety case in light of any refurbishment (landlord or resident) and notify the BSR before work starts (including where a Competent Person is used)
- Engage with residents in the safe management of their building through a Resident Engagement Strategy – including complaints procedures
- Report into a mandatory occurrence reporting regime.

7.0. Updates to Approved Document B

7.1 Following the Government's consultation on Approved Document B, on the 26th May 2020, they published an update to Approved Document B that includes increased fire safety measures in high rise flats. Currently sprinklers are required in residential buildings with a floor over 30m (approx. 10/11 storeys). New measures include requiring sprinkler systems and introducing the provision of wayfinding signage in all new high-rise flats over 11 metres tall (approx. 3/4 storeys). These new requirements will come into effect from the 26th November 2020. The Government also consulted on a requirement for evacuation alert systems and is working with the National Fire Chiefs Council on a series of tests of new technology in this area, with a view to including guidance in a later update to Approved Document B. The Government has published a plan for the full technical review of Approved Document B and is now beginning to commission the required research for this crucial fundamental review.

8.0 Links

['Building a Safer Future'](#) consultation, setting out our plans for bringing about the biggest change in building safety for a generation. The consultation, published June 2019, sought views on proposals for a radically new building and fire safety system based on the

[Independent Review of Building Regulations and Fire Safety](#). Dame Judith Hackitt's review and recommendations on the Building Regulations and Fire Safety

[New measures to improve building safety standards](#) the formation of a new, national Building Safety Regulator