CIH response to Building a safer future: proposals for reform of the building safety regulatory system

About CIH

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We passionately believe in our mission to support housing professionals to create a future in which everyone has a place to call home; equipping them with the skills, knowledge and expertise they need to make a crucial difference every day.

Our unique housing academy offers a comprehensive range of learning opportunities for the housing and property management sectors. This can take the form of topic and/or competency-based training, qualifications from introductory to post-graduate level, or continuous professional development courses on a range of subjects relevant to social housing, leasehold management and the private rented sector.

Introduction

CIH welcomes the opportunity to comment on this important consultation. We are positive and supportive of many of the proposals and what they aim to achieve. We both welcome and recognise the need to overhaul the building safety regulatory system as highlighted by Dame Judith Hackitt in her initial review. As with any reforms of this nature and size, the issues will be in the detail of the recommendations and how they are implemented and adopted in practice. It is important that government continues to work with the relevant industry bodies, residents and landlords after the consultation closes to help shape legislation and regulations.

As the professional body for the housing sector, our focus is on the proposals that relate to buildings when they are in occupation - specifically, to proposals that relate to the management and maintenance of buildings, the relationships with residents and the competencies required to do these effectively. Therefore, we have not answered all the questions in the consultation, just the ones most pertinent to the work of our members.

Summary of key proposals in the consultation

- Buildings within scope of the consultation are multi-occupied residential buildings above 18 metres in height, although there may be scope to extend this to other higher risk sleeping accommodation including care homes and sheltered housing.

- A new ‘building safety regulator’ is proposed, which will have extensive powers to regulate the design, construction, refurbishment and occupation of buildings in
scope (paragraph 315). All buildings in scope will have to be registered with the regulator, who will issue a certificate which must be displayed in the common areas of the building. The certificate would incur a registration fee and will include fire and structural safety conditions which must be complied with.

- An ‘accountable person’ must be identified for each building in scope. This could be a body corporate but, where this is the case, a named individual at board level would be ultimately responsible for fire and structural safety in the building. Accountability cannot be transferred, and the accountable person would have to be registered with the regulator.

- The accountable person will be required to appoint a building safety manager (BSM) in each building. Although it is not clear, the proposals indicate that this could be an organisation or a natural person. It could be the accountable person, if competent, or could be transferred to a third party. In any case, the BSM must be competent and will have a wide range of duties (paragraph 167), including building safety and resident engagement. The BSM would need to be registered with the regulator and could be replaced by the regulator in certain circumstances - a sort of ‘special measures’ for buildings - with the regulator recovering costs from the accountable person.

- The accountable person would need to prepare a ‘safety case’ like those required in other high hazard industries (like petrochemical), which would be required before constructing new buildings in scope or will be phased in for existing buildings. The safety case would include items such as fire risk assessments, a fire and emergency file and a risk management plan for the building. A full list of proposed contents is provided (paragraphs 127 and 128). The safety case would be reviewed every five years, or sooner if required by the regulator, and the building certification would be renewed at the same time.

- The accountable person will need to develop a resident engagement strategy, including a management summary (paragraph 269) and engagement plan (paragraph 270). This strategy would include documented processes to capture and escalate resident complaints. If these are not acted on, or the conditions of the registration certificate not met, residents could escalate complaints to the regulator, who would have powers to intervene including fixed penalties, prosecution and replacing the BSM.

- There is a proposal for a new duty on residents (including leaseholders) to cooperate with the accountable person, including allowing access where required and providing information about relevant repair, improvement or maintenance work that the resident has carried out.
CIH response to Building a safer future: proposals for reform of the building safety regulatory system

- New gateways are proposed for construction and refurbishment of buildings in scope; at planning permission, building approval and sign off prior to occupation. These gateways would require submission of documents including the safety case, and authorisation to proceed from the regulator. It is proposed that these are ‘hard stops’ and would include a new criminal offence if work is carried out without permission. The regulator would also be able to require that structures are torn down or laid open for inspection.

- There are new responsibilities proposed for the dutyholders within the Construction (Design and Management) Regulations, including a requirement for the principal contractor and principal designer to declare that the works have complied with building regulations. Most of the proposals for these dutyholders, however, are expansions and clarifications of existing duties, so there is also a proposal for them to apply to all construction works, not just those relating to buildings in scope.

- There is a proposal for a competence framework for dutyholders including the BSM, fire risk assessors, designers and contractors, who would have to demonstrate competence, complete continuing professional development (CPD), and be registered with the regulator.

- There are several recommendations around the ‘golden thread’ of building information which is required to support the safety case, including design and ‘as built’ drawings, operation and maintenance manuals and information about fire safety measures. The software requirements are unlikely to be mandated by government, but there will be a ‘key dataset’ (paragraph 202) which would have to be returned on a standard spreadsheet or database, which would be published openly. Other golden thread information would not be required to be published, but some of it could be requested by residents or other interested parties. There may be a requirement for information to be held in a building information modelling (BIM) format, including 3D modelling.

- There is a proposal for mandatory occurrence reporting, similar in scope to Reporting of Injuries, Diseases and Dangerous Occurrences Regulations (RIDDOR) (paragraph 222), and protection for whistle-blowers. There would also be a ‘no wrong door’ approach to occurrence reporting, so that existing regulators would be required to cooperate with the new regulator.

- There are further proposals for the control of construction products under a separate regulator, and the introduction of new offences, fees and statutory powers.
General feedback

Our response has been informed by feedback from our members. We ran a range of consultation exercises during July, including webinars, regional events and an online survey. Members have also submitted case-study examples to highlight where there may be some practical implementation challenges and to help offer alternative recommendations where possible.

While we are positive about the aims and objectives of the reforms overall, there are a few wider concerns that we want to highlight before we comment on the details of the proposal.

• While we understand the rationale for extending the regulatory framework to buildings over 18 metres, from the original 30 metres, this will significantly increase the number of buildings in scope. This will have a major impact on the resources and capacity of housing providers and will put additional pressures on the new building safety regulator (when established). Therefore, we would recommend that the framework should initially apply to buildings over 30 metres, to allow the new regime to be tested, and for capacity and resource to be built across both the industry and the new regulator, with an intention to increase the scope to include buildings over 18 metres within a defined period.

• The focus of the new regulatory regime on fire safety and structural issues alone will provide some challenges for housing providers as building safety is currently managed holistically across the six risk areas of gas safety, electrical safety, asbestos, lifts, fire safety and legionella. The new regime will require a different approach to managing these risks across the piece.

• The approach also raises the links/overlap with existing housing regulation. The current Regulator for Social Housing (RSH) has a remit to investigate breaches which amount to “serious detriment” – commonly these relate to statutory health and safety requirements including the six areas above. Clarity is needed about where regulatory responsibilities lie to avoid confusion and duplication.

• For complex, multi-occupied residential buildings there will need to be further clarity on the relationship between existing dutyholders and regulators - Health and Safety Executive (HSE), RSH, environmental health, fire and rescue authorities (FRAs), local authority building control - and the new regulator to ensure simplification of the current complex system.

• We are positive that the new approach will work well for new developments – especially with the introduction of the three new gateways. The big challenge
will be applying elements of the regime to existing buildings, which in many cases will have been built in the post-war decades. This will pose several challenges, specifically in relation to the robust compilation of the safety case.

- It will be important to understand any wide housing policy impacts of the proposals – specifically on housing supply. Anecdotally, we understand that organisations are currently diverting funds from new supply to fund the significant costs of remedial and mitigation works to existing buildings. In addition, we are aware that some landlords have made the decision to demolish the kinds of buildings in scope that will not be financially viable under the new regime. Evidence shows that we need to build 90,000 homes at the lowest ‘social’ rents every year. Reducing the number of existing homes through demolition will only increase that figure. The proposals may also deter landlords from developing new buildings over 18 metres due to the additional burdens and cost of design, construction and management under the new system.

- In addition, there may be a future impact on how homes in buildings in scope are allocated – especially if vulnerability, age, and disability are deemed as significant risk factors for building safety. Government will need to consider how else people’s housing needs will be met if they are no longer eligible for a significant proportion of our housing stock.

- Government will need to consider how elements of their proposals will be funded including costs associated with:
  o provision of fire suppression systems
  o remediation/mitigation works
  o transition and implementation of the new regime
  o ongoing costs associated with developing the new regime, such as the BSM, registration fees, third-party certification
  o costs associated with developing and funding a competency standard and framework.

- The consultation document provides little clarity on the specifics of the transition arrangements, and these will need to be clear and unambiguous. Any transitional arrangements will need to ensure that buildings in occupation can remain in occupation wherever possible and safe to do so. Certain proposals can be implemented quickly, but others will need a phased implementation – for example, the safety case.

- While we support the introduction of competent persons throughout the life cycle of the building, this will be a challenge with the introduction of the new BSM. This is a complex role requiring a broad range of knowledge, skills and expertise. Currently, we think the pool of people who would be competent to
deliver this role is small. Government will need to consider how to support the housing sector to build that capacity and the transitional arrangements which will be required during implementation.

**Specific feedback on consultation questions**

**Chapter 2: Stronger requirements for multi-occupied high-rise residential buildings (pages 28 - 33)**

**Scope of the new regulatory system**

Q.1.1. Do you agree that the new regime should go beyond Dame Judith’s recommendation and initially apply to multi-occupied residential buildings of 18 metres or more (approximately 6 storeys)? Please support your view.

While we appreciate that the definition of high-risk buildings is more complex than height alone, we understand the need to define the parameters to which the new regulatory framework will apply, especially taking into consideration the increased capacity and resource implications of adopting a purely risk-based approach.

We recognise that 18 metres is consistent with building regulations and the current ability of the fire and rescue services to affect an external rescue. However, we are concerned that applying the regulatory framework to buildings over 18 metres will significantly increase the number of buildings in scope (maybe as much as trebling them).

We would recommend that the framework should initially apply to buildings over 30 metres, to allow the new regime to be tested, and for capacity and resource to be built across both the industry and the new regulator, with an intention to increase the scope to include buildings over 18 metres within a defined period.

Clarity and consistency will be required in defining the actual scope as 18 metres and six storeys may not always be the same height.

Q. 1.2. How can we provide clarity in the regulatory framework to ensure fire safety risks are managed holistically in multi-occupied residential buildings?

As we understand it, under the proposed system, multi-occupied residential buildings will still fall under the remit of different regulators including HSE, environmental health, RSH, FRAs and the new building safety regulator. In these circumstances, it will be essential that there is some type of duty to cooperate between the different regulators. It will also be important to understand which regulatory framework would take priority in the event of any dispute.
We also need to ensure that there are no gaps in the overlap between regulations which creates confusion and results in areas, such as residential front doors, which are not in scope under the Regulatory Reform (Fire Safety) Order 2005 or the Housing Act 2004.

**Q.1.7 On what basis should we determine whether some or all categories of supported/sheltered housing should be subject to the regulatory arrangements that we propose to introduce during the occupation stage? Please support your view.**

This should be assessed and determined based on fire safety risk to residents on the same basis as the proposal to extend the regime to buildings of six storeys or more. Consideration should also be given to issues such as the level of care provided, the designation of the building (e.g. dementia care) and the ability of residents to look after themselves independently.

The fire action strategy could also be taken into consideration. Those able to stay put could be treated differently to those where a managed simultaneous evacuation is required. Again, if categories of supported/sheltered housing are included, this would significantly increase the buildings in scope and a phased approach to their inclusion in the regulatory regime must be considered.

**Q.1.8 Where there are two or more persons responsible for different parts of the building under separate legislation, how should we ensure fire safety of a whole building in mixed use?**

Where residential buildings in scope are above commercial premises the new regime would apply to the flats, but the commercial premises would be covered by the Fire Safety Order.

Clarification will be required about how this will work in practice. We agree that it would be important to create a new duty to cooperate and coordinate where there are two or more persons responsible for fire safety within a building regulated by different legislation, namely a responsible person (under the Fire Safety Order) and a new accountable person role proposed for the multi-occupied residential areas of the building 18 metres and above.

**Chapter 3: A new dutyholder regime for residential buildings of 18 metres or more (pages 34 - 78)**

**Part B – Duties in occupation (pages 49-62)**

**Introduction of a new safety case approach – general comments**
We agree in principle with the introduction of a new safety case approach. For newer buildings, many organisations will already have this information or be in the process
of pulling it together. The big challenge will be compiling this information for existing buildings in scope which are older – for example, those built in the post-war decades – where information on structural detail “as built” will be difficult to find. The consultation does acknowledge this as a challenge but lacks detail of the transition period or how safety cases will be phased in. We recommend an approach where the regulator works with organisations for a transitional period to allow the regulator time to set up a review schedule and supports a phased approach for the provision of relevant information. This will be especially important where organisations have large numbers of existing buildings in scope. Where compiling the information demonstrates that the building is need of remedial work or further exploratory work, we propose the regulator should work with the accountable person organisation to agree any additional measures required and a timetable under which the required work/exploration should be carried out.

The safety case will need to be dynamic, as building safety can be compromised on a regular basis by the activities of residents and other parties (for example utility companies, private contractors and communication and media service providers). In this respect the safety case will be underpinned by the statutory duty on residents to cooperate.

It will be important to create some form of independent appeals mechanism where there is a dispute with the building safety regulator about the information and evidence required/provided.

Q. 3.1. Do you agree that a safety case should be subject to scrutiny by the building safety regulator before a building safety certificate is issued? Please support your view.

Yes. However, there needs to be a strategy for dealing with any issues of capacity within the new regulator. In the event of any backlog, landlords will need a certificate for insurance or investment purposes. The regulator could consider a measure where a positive assessment on previous safety case reviews was taken in account. This could mean shifting from a certificate being held for a building to a certificate being held for a landlord.

Q. 3.2. Do you agree with our proposed content for safety cases? If not, what other information should be included in the safety case?

Yes. But, as stated above, consideration must be given to existing buildings where the evidence cannot be provided for valid reasons.

Q. 3.3. Do you agree that this is a reasonable approach for assessing the risks on an ongoing basis? If not, please support your view or suggest a better approach.
Yes. We agree that registration should be reviewed every five years, but other issues could trigger a review, such as mandatory occurrence reports, change of use, refurbishment activity, end of major works programmes, concerns raised by residents or risk reports or where the accountable person requests it.

Q.3.4 Which options should we explore, and why, to mitigate the costs to residents of crucial safety works?

In some circumstances, it may be reasonable for ongoing costs associated with the new regime to be covered through service charges. However, it does not feel reasonable or fair to recover costs associated with crucial safety works from tenants and leaseholders. We would ask government to create a “building safety fund” which landlords could apply for (in a similar vein to the £400 million allocated for the social sector ACM cladding remediation fund).

A new accountable person

Q.3.5. Do you agree with the proposed approach in identifying the accountable person? Please support your view.

We support the principle of having an “accountable person.” However, to engender the culture change required, it will important that responsibility and ownership for building safety is embedded throughout – from board to chief executive to residents.

While it is right that a legal entity, company or body corporate can hold the legal liability, the fundamental principle and purpose of the accountable person must be to ensure that buildings are safe in occupation. Therefore, we strongly feel that there must also be a named, identifiable individual who is has the active accountability and responsibility for a building’s safety.

This person must have the appropriate seniority and executive powers and must have the relevant competence and capacity to discharge their duties, including the ability to:

- to influence to change practice
- deploy suitable/the right scale of financial and human resources
- understand the management of the buildings in scope
- control systems and processes

As such, we are clear that a non-executive/board post would be unable to discharge the duties of the accountable person as alluded to in para 161.
In cases where there is unified ownership within a block or blocks, this person will be easily identifiable – in most cases in the social housing sector this is likely to be the chief executive officer or potentially an executive director.

However, the difficulty with the proposed description of the accountable person arises in the situation where there are multiple "landlords" within a block. In that case, there may be several bodies or none which would fall within that definition because of the layers of leases that may have been granted over it, the extent of the demises and the terms of individual leases. In addition, across both the social and private sector, ownership models can be extremely complex.

For example:

- a freeholder may have no long-term rental return nor service charge from the block in question, having received a premium on the grant of a lease of the relevant building to a block owner
- separate organisations, such as housing associations, may occupy separate cores within a residential block in which they may have assumed responsibility for the common parts within those cores, but not responsibility for the structure of the building as a whole
- responsibility for block management may have been devolved to separate management companies under contractual arrangements in circumstances where the landlord operates as a hands-off investor.

In these circumstances, identifying any single accountable body may prove difficult. In addition, even if a single body could be identified, its ability to secure compliance with all requirements of the building safety certificate on an ongoing basis may be impaired, because it may not have the ability to ensure compliance of multiple landlords within the same building in the absence of provisions within the underlying leases or statutory compliance obligations.

The current definition in para 159 needs clarification as it suggests that an accountable person can be identified by reference to their “right to receive funds.” This is particularly confusing where there is an arms-length management organisation (ALMO) which manages stock on behalf of a local authority. As described, the accountable person could be either the local authority or the ALMO (which can receive but not keep “rack rent and service charges”). Without further clarity, this could lead to confusion and an inconsistent approach adopted by different ALMOs and local authorities across the country. Along with our colleagues at the National Federation of ALMOs, we strongly recommend that accountable body is the local authority.

Q. 3.6. Are there specific examples of building ownership and management arrangements where it might be difficult to apply the concept of an accountable
person? If yes, please provide examples of such arrangements and how these difficulties could be overcome.

Our members in the social housing sector have many examples within their own stock where there are complex ownership models. As part of our response to the consultation process, we have provided contacts to MHCLG for them to explore these examples in more depth.

A good example is the Victoria Centre in Nottingham. This is a complicated building consisting of a car park, bus station, shopping centre, blocks of flats and annexed accommodation with a mix of various freeholders, leaseholders, tenants and management organisations. It would be almost impossible to define accountability for the whole of this building with the currently proposed framework.

Q. 3.7. Do you agree that the accountable person requirement should be introduced for existing residential buildings as well as for new residential buildings? Please support your view.

Yes. As we know, existing residential buildings can present a higher risk than new buildings in terms of fire and structural safety. Many of our members have carried out Type 4 fire risk assessments and have found structural and fire safety concerns across the board. It is also imperative that residents in existing buildings have the same level of assurance and accountability as those in new build homes.

Building safety manager (BSM)

Q.3.9. Do you agree with the proposed duties and functions of the building safety manager? Please support your view.

Q. 3.10. Do you agree with the suitability requirements of the building safety manager? Please support your view

This response relates to both the questions above. While we welcome the principle behind the introduction of a BSM, we do not agree that this should a statutory role. We advocate the creation of a statutory framework for this function/role (what is required) with the ability for landlords to define the delivery (how it is achieved) and therefore, who is best placed to discharge the delivery to specific buildings in scope. But we do understand the importance of residents having a named contact – this could be the relevant housing manager, who would have the knowledge of and access to the relevant skills within the organisation. We also feel that it is important for organisations to determine the number and type of buildings which fall under the remit of the BSM.
In many cases, the knowledge, skills and expertise to deliver this role already exist across many organisations in the social housing sector and in facilities management functions in the private sector. However, they will not generally be vested in one person. For example, in many social housing organisations, the responsibilities for fire safety are shared among several roles (through a cross-disciplinary approach) to ensure that the right skills and competencies are covered. In these circumstances, we would still advocate a named competent individual, but enable them to call on the expertise of others to discharge their functions.

If government does mandate this as a specific role, it will be multi-faceted and will require a broad range of knowledge, skills and expertise. In addition to technical expertise, the BSM will also need the skills to communicate effectively with residents. Currently, we think the pool of people who would be competent to deliver this role is small. Government will need to consider how to support the housing sector to build the pipeline and capacity for this role as quickly as possible.

The BSM will need the power to discharge their responsibility, for example, over leaseholders and third-party contractors (such as utility companies, private contractors and communication and media service providers).

Q. 3.11 Is the proposed relationship between the accountable person and the building safety manager sufficiently clear? Please support your view

The consultation allows the accountable person and BSM to be the same person. This could potentially result in a conflict of interest or lack of accountability in larger organisations. We think that these should be two distinct roles unless there is a strong argument to combine them.

Building safety certificate

Q. 3.17. Do you agree that this registration scheme involving the issue of a building safety certificate is an effective way to provide this assurance and transparency? If not, please support your view and explain what other approach may be more effective.

Yes. We support the introduction of a registration scheme and agree that this is an effective way to provide assurance and transparency. However, the regulator must have the resource and capacity to issue and review safety cases to avoid unnecessary delays. It will be important to have a transitional implementation period for existing buildings as stated above in relation to the safety case. However, roll out and timings will be crucial to ensure that residents living in existing buildings in scope feel safe.
Q. 3.18. Do you agree with the principles set out in paragraphs 180 and 181 for the process of applying for and obtaining registration?

Yes. The principles seem reasonable. We await further information on the cost of registration and review.

Part C - Duties throughout the building lifecycle

Golden thread of information - building information modelling (BIM)

Q. 4.1. Should the Government mandate Building Information Modelling (BIM) standards for any of the following types and stages of buildings in scope of the new system?

c) Existing buildings in the occupation stage, please support your view.

Generally, we support the creation of a digital record for every higher risk residential block throughout its life cycle to ensure accurate information about the building is created, updated and accessible. It is sensible to hold a single source of information from initial design intent through to construction and to all subsequent changes during occupation.

Providing a complete digital record for existing buildings will pose more of a challenge and so a consistent approach will need to be established. The list of the types of information that should be recorded will need to be established fully and the need to support the safety case file clearly identified.

BIM processes may not be able to be achieved for existing buildings in the truest sense. However, that does not mean that the building cannot be modelled, and information linked to that. Again, clear asset information requirements for existing buildings would be useful and provide landlords, and those working on behalf of them, with clear expectations about information capture. Once this is established, any future major works to the building should be delivered through a BIM process.

We agree that there are significant benefits to be realised by using BIM. However, the use of BIM for existing stock is not yet current practice. We would ask that government does not legislate to make its use mandatory from the offset. This could be an area that is better explored in more detail by the early adopters’ group and a phased approach for roll-out agreed across the wider sector.
Competencies

Q. 4.17. Do you agree that the enhanced competence requirements for these key roles should be developed and maintained through a national framework, for example as a new British Standard or PAS? Please support your view.

CIH were involved in WG8 which considered the competency requirements of the BSM. We support the proposal that the three key roles identified (principal designer, principal contractor and BSM) have the relevant competencies to discharge their functions effectively. We also agree that this should be through a set of national standards to ensure consistency and a broad national recognition. We would suggest that any qualifications developed fit into the current regulatory framework through the Office of Qualifications and Examinations Regulation (Ofqual). Using the existing framework will enable professional bodies to develop an offer that’s suitable for people new into roles, but will also allow them to adapt existing qualifications against the new competency framework which will be relevant to those who already have some related knowledge, skills, expertise and experience. In this way, we will be able to get people up to speed and demonstrate competence more quickly.

Duty to promote building safety

Q. 4.18. Should one of the building safety regulator’s statutory objectives be framed to ‘promote building safety and the safety of persons in and around the building’? Please support your view.

Yes. It seems sensible to give the regulator not only its regulatory functions, but a more proactive role to promote building safety and the safety of persons in and around buildings. We are interested to see how this may work in practice and who regulates this duty.

Q. 4.19. Should dutyholders throughout the building life cycle be under a general duty to promote building safety and the safety of persons in and around the building? Please support your view.

We understand that this proposal aims to deliver the culture change strongly advocated by Dame Judith Hackitt which is vitally important in order to move away from the “tick box” approach to building safety. However, it will be important to understand what compliance would look like, how breaches would be reported and what the sanctions would be if dutyholders failed to comply. Again, this will create additional resource and capacity issues for the building safety regulator.

Chapter 4: Residents at the heart of a new regulatory system (pages 79 - 90)

Information to residents
Q. 5.1. Do you agree that the list of information in paragraph 253 should be proactively provided to residents? If not, should different information be provided, or if you have a view on the best format, please provide examples.

Yes, as a minimum. The format for the information will vary and should not be prescribed. The accountable person (and BSM) should work with residents to determine the amount (above the minimum set out in the consultation), type, format and presentation of information as appropriate to each building in scope and the demographic of the residents.

Q. 5.2. Do you agree with the approach proposed for the culture of openness and exemptions to the openness of building information to residents? If not, do you think different information should be provided? Please provide examples.

Yes. However, some of the building information listed in the consultation is likely to be technical in nature so consideration would need to be given to how the information is provided and/or interpreted for a non-technical audience. There should be a reasonable limit on the information on ‘historical changes’ that needs to be provided.

Q. 5.4. Do you agree with the proposed set of requirements for the management summary? Please support your view.

Q. 5.5. Do you agree with the proposed set of requirements for the engagement plan? Please support your view.

This response relates to the two questions above. Yes. But there is a question about the timing of the production of the management summary and the engagement plan. The consultation states that the production and delivery of the resident engagement strategy would be one of the mandatory conditions of issuing a building safety certificate. This should be the case for registration of existing buildings. However, for new buildings it will provide a challenge to have this in place in advance of occupation (especially in the case of phased occupation). This also seems to go against the desire to have a consultative approach to engagement with residents if they are not yet in place to inform the summary and plan. In these circumstances, it would be more reasonable for the accountable person to set out an overview of the summary and plan with timescales to submit a full management summary and engagement plan once the building is fully occupied.

Residents’ responsibility

Q. 5.6. Do you think there should be a new requirement on residents of buildings in scope to cooperate with the accountable person (and the building safety manager) to allow them to fulfil their duties in the new regime? Please support your view.
Yes. This will be essential to ensure that the accountable person (and BSM) can fulfil their statutory obligation to keep buildings safe. To have teeth, this will need to be a statutory duty and consideration will need to be given to the interplay with existing tenancy and lease conditions (some of which are implied by law rather than being written into the actual tenancy/lease agreements).

Any statutory duty must be proportionate and be used only as a backstop. Residents must understand their responsibilities for building safety, and provisions need to be in place to ensure that all residents are supported to understand these. Most residents do not deliberately engage in behaviour or activities that compromise the safety of their homes and building, though we recognise a few residents will either deliberately or negligently not cooperate. In such circumstances, there should be an escalating suite of interventions, which starts with communication, but can result in legal action as a last resort.

Q.5.7 What specific requirements, if any, do you think would be appropriate? Please support your view

As set out in the consultation, requirements would only need to be specific to fire and structural safety and the ability of the accountable person to fulfil their duties under the new regime. We feel that this duty should be widened to support broader building safety (including, for example, gas and electrical safety).

Duties could include specific obligations on residents to:

- provide reasonable information about servicing or improvement work carried out within their property
- use their property in a way that is not detrimental to the building or other residents’ safety
- allow access with reasonable notice
- take part in fire safety drills (where appropriate)
- keep fire exits clear of obstructions
- respond to reasonable requests from the BSM to address building safety concerns

Q. 5.8. If a new requirement for residents to cooperate with the accountable person and/or building safety manager was introduced, do you think safeguards would be needed to protect residents’ rights? If yes, what do you think these safeguards could include?

There must be a balance with residents’ rights to privacy and quiet enjoyment of their home.

Escalation and redress
Q. 5.11. Do you agree that there should be a duty to cooperate as set out in paragraph 290 to support the system of escalation and redress? If yes, please provide your views on how it might work. If no, please let us know what steps would work to make sure that different parts of the system work well together.

We agree that it is essential that residents can easily escalate safety concerns to the building safety regulator.

However, as noted in government’s response to Strengthening consumer redress in the housing market, the current situation is complex. Several existing redress schemes already cover different parts of the housing market, with several further schemes (such as a new-homes ombudsman) also in the process of being established.

To simplify this, we support the government’s proposal to establish a housing complaints resolution service (HCRS) to act as a single initial point of access for all redress schemes operating in the sector. This should make it much easier for residents to navigate the system and to access the appropriate scheme for their complaint quickly and simply.

We would therefore see a key role for the HCRS in ensuring that residents are easily able to raise concerns about building safety. We suggest that supporting residents to access the building safety regulator is included within the remit of the HCRS. This would ensure that residents are able to do this via a single, easily accessible and hopefully widely recognised route, and that residents do not have to work out whether their complaint is one that should go to the building safety regulator or one that should go to the new homes ombudsman, for example.

However, there will still be occasions where other agencies, such as individual local authorities, become aware of issues relating to building safety, and we agree that it will be important to put further measures in place to ensure that these are passed on to the building safety regulator. We would therefore also welcome the creation of a duty to cooperate, which would require local authorities to inform the building safety regulator of any issues that may be within their remit.

Chapter 5: A more effective regulatory and accountability framework for buildings (pages 91 - 104)

Building safety regulator – general comments

We agree that there needs to be a stronger system for regulatory oversight and support the proposal to create a new building safety regulator. We agree broadly with the regulatory and oversight functions outlined in the consultation.
We are interested to understand more about the relationship the new building safety regulator will have with other regulators. For example, the current Regulator for Social Housing (RSH) has a remit to investigate breaches which amount to “serious detriment” – commonly these relate to statutory health and safety requirements including the six risk areas of gas safety, electrical safety, asbestos, lifts, fire safety and legionella. Clarity is needed about where regulatory responsibilities lie to avoid confusion and duplication.

The new regulator has a significant remit under the new proposals – including an oversight of the safety and performance of all buildings. It will be essential that the new regulator has the resource, expertise and capacity to discharge its functions.

We are keen to see government’s proposals for how the new regulator will be funded. We would advocate that it is, in part, seed-funded by government to support initial set up, capacity building and resourcing to enable it to be operational as soon as possible. It will also be important to move forward swiftly on the oversight function ahead of legislation. As stated above, we are concerned about the limited pool of potentially competent people and establishing competence will take time – both to train and register. This must be done to ensure that the new building safety regime is able to operate once legislation is passed.

**Conclusion**

Overall, we welcome government’s proposals on how they intend to take forward the recommendations from the Hackitt review. We understand that this will be a seismic change across all areas of industry involved in the design, construction and management of buildings in scope. Reforms of this size and scale are complex and will take time to implement – so we urge our sector and government to progress this expediently where possible.

To this end, we would ask that government provide early clarity and certainty on:

- the key roles identified in the proposals – specifically there are still outstanding questions about the role and function of the accountable person and the BSM
- how elements of the proposals will be funded including costs associated with:
  - provision of fire suppression systems
  - remediation/mitigation works
  - transition and implementation of the new regime
  - ongoing costs associated with developing the new regime, such as the BSM, registration fees, third-party certification
  - costs associated with developing and funding a competency standard and framework
CIH response to Building a safer future: proposals for reform of the building safety regulatory system

- the transitional arrangements and time frame for the introduction of the new regime overall and on the specific elements including the introduction of the safety case, BSM, building safety regulator and the building certification process
- the proposed organisational model for the new building safety regulator

We hope to continue working closely with the MHCLG building safety team over the summer and autumn to further shape and define the proposals in advance of any draft legislation.

Contact

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