

Chartered Institute of Housing response to the building safety consultation on the in-occupation regime for occupied higher-risk buildings

The Chartered Institute of Housing (CIH) welcomes the opportunity to respond to this consultation on the in-occupation regime for occupied higher-risk buildings. The Building Safety Act is a critical piece of legislation, bringing in important and much-needed new regulations to improve building safety. It is positive to see this constructive engagement with the housing and building sectors on secondary legislation.

Our response is primarily focused on areas where we believe further considerations need to be made in these policy proposals to deliver a new regulatory regime that effectively and efficiently improves the safety of all residents in higher-risk buildings. We have not commented on the detail of all aspects of the proposed changes as others will be better placed to do this.

Our responses are split by the consultation sections below.

Safety case approach

4. Do you agree or disagree with the proposed principles that the principal accountable person and accountable person(s) must follow when managing building safety risks?

Response: Agree

We agree that these principles, when implemented by adapting to the individual circumstances of each high-rise building and its residents, would be appropriate for managing building safety risks in higher-risk buildings. We agree that prevention of building safety incidents is the best way to keep residents safe, followed by combatting risks at source.

We have some comments on how these principles should best be translated into action. Firstly, we want to emphasise the importance of listening to and engaging with disabled and mobility impaired residents. Building safety matters can be of particular concern to such residents. They may be less able to evacuate when

necessary and as such rely more than others on prevention and suppression features. We strongly believe that consideration of disabled and mobility impaired residents should be factored into the development and management of high-risk buildings from the outset. Some measures which would particularly benefit disabled and mobility impaired residents, such as a secondary staircase to provide multiple routes of exit including by stairlift where needed, are difficult or impossible to add to buildings once they are completed. Whilst developers and building managers cannot prepare for the individual needs of every potential resident, general steps could be taken to improve the accessibility of building safety features from the outset.

In addition, while we agree that collective safety features should be prioritised where possible, we wish to emphasise the benefits of targeted, individual suppression measures. In existing buildings, it may not always be practical or cost-effective to retrofit whole-building safety features such as sprinklers. These can particularly benefit residents with disabilities or mobility impairments who may have greater difficulty in reaching safety were a fire to break out in their own apartment.

5. Do you agree or disagree with the proposed content of the safety case report?

Response: Agree

We think it is important for the safety case report to include details of any considerations and adjustments made to ensure the safety of disabled and mobility impaired residents. This may include:

- Features of the building e.g. secondary staircases and targeted prevention/suppression measures
- Assessments of building safety risks, where they specifically consider the circumstances and needs of disabled and mobility impaired residents
- Steps taken to manage building safety risks
- Emergency arrangements, particularly any evacuation aids introduced

6. Do you have any views on the format in which a safety case report must be produced, stored and submitted?

The format of safety case reports should not be prescribed, to allow accountable persons to determine the best approach given the specific details of each building.

7. Do you have any views on the way in which the Building Safety Regulator must be notified by the principal accountable person following the completion or update of a safety case report?

The Building Safety Regulator should provide guidance on what level of detail should be kept in the safety case report, as this will impact on how often organisations may need to update them and share them with the Building Safety Regulator. We agree that the safety case report should be a “live document” and therefore kept up to date, but this may mean frequent changes are made. For example, if the safety case report needs to be updated each time a defective fire door is identified this could result in frequent updates and notifications to the Regulator.

8. Do you have any further observations you would like to share?

We have no further observations to share on the safety case approach.

Mandatory Occurrence Reporting

4. Do you agree or disagree with the proposals for establishing and operating a mandatory occurrence system by the principal accountable person?

Response: Agree

We agree with these proposals. However, we would also note that the overarching purpose of introducing the mandatory occurrence reporting system is to capture and share learning across the sector about fire and structural safety concerns. This needs to be considered within the design of mandatory occurrence systems for individual buildings. They should not be designed to capture excessively detailed information about minor incidents which are quickly resolved and from which minimal learning can be drawn for the benefit of the sector.

5. Do you agree or disagree with the proposed circumstance in which a safety occurrence is reportable?

Response: Neither agree nor disagree

We need further detail on the definition of a safety occurrence to determine whether the proposed circumstances for reporting are reasonable. The guidance detailing examples of incidents and situations which should be reported will be important and must assist accountable persons in determining the level of severity of issues that must be reported to the Building Safety Regulator. As noted above,

we would suggest that this system should be designed with the aim of supporting sector learning on building safety; the identification of comparatively minor issues which can be quickly addressed would be unlikely to support sector learning and therefore provide little benefit if reported to the regulator. For example, we would suggest that reporting every instance of a broken fire door would be excessive (unless the matter represented a breach of duties under the Fire Safety Order). Such reporting would create an unnecessary burden for accountable persons in gathering and sharing data, and for the Regulator in assessing information that provides minimal benefit to its role in sharing learning with the sector.

6. Do you agree or disagree with the definition of a safety occurrence?

Response: Neither agree nor disagree

As noted above, we need further detail on the definition of a safety occurrence to understand what information the Building Safety Regulator expects to gather. This detail should help to avoid the reporting of issues that do not meet the risk condition.

7. Do you agree or disagree with the proposed information that should be reported to the Building Safety Regulator?

Response: Agree

This information would be sufficient to identify the key features of a safety occurrence. We would note that the date and time will often need to be of when the occurrence was identified rather than when it first happened. For example, if a compartmentalisation breach were identified, it may not be clear when it first occurred and this information might not be particularly useful even if it were available.

It would be useful to include, within the details of the safety occurrence, what steps have been taken or are proposed to resolve the issue.

8. Do you agree or disagree that safety occurrences should be reported to the Building Safety Regulator within 10 calendar days?

Response: Agree

We agree, on the basis that this means 10 calendar days after the safety occurrence was first identified or reported to the principal accountable person.

Residents' voice and duties on residents

4. Do you agree or disagree with the instances in which the accountable person will be required to provide residents with information?

Response: Neither agree nor disagree

We agree that the accountable person should provide relevant building safety information when the building is first occupied, when a new resident moves in or when the information becomes out of date.

However, we are concerned that the accountable person may not always know when a new resident moves in, particularly when apartments are sub-let. It will be difficult to set a requirement for all occupants to inform the accountable person when they sub-let, as that would require a change to the terms of existing leases. To improve the likelihood of reaching all residents, we would suggest that accountable persons regularly contact residents to inform them that this information is available to them e.g. by leafletting. For example, given the proposals to review the resident engagement strategy every two years, it would make sense to contact residents every two years.

5. Do you agree or disagree with the proposed types of information residents should always receive?

Response: Agree

The proposed information should provide residents with enough information to understand the important safety features of their building. We additionally think that residents should be provided with details of their responsibilities, as introduced in the Building Safety Act.

The explanation of the role of the responsible person should note their responsibility to ensure that residents can safely evacuate in the event of a fire. This should include reference to any new requirements on responsible persons in relation to disabled and mobility impaired residents that may emerge from the Home Office's consultation on Emergency Evacuation Information Sharing.

As far as possible, this information sharing should be aligned with the information that must also be provided to residents under the Fire Safety Order.

6. Are there any specific documents or information you think should be included or excluded from the information residents receive automatically?

Response: Yes

We would note that the Responsible Person under the Fire Safety Order also has a responsibility to share the building's evacuation strategy with residents. In our view, it would make sense for this also to be provided alongside the other information residents receive automatically from the Accountable Person. This would bring all important building safety information for residents together into one place.

7. Do you agree or disagree with the proposed lists of further information that residents can request?

Response: Agree

We would not suggest any changes to the proposed lists of further information that residents can request.

8. Do you agree or disagree with how information will need to be provided to residents?

Response: Agree

It is important that residents understand important safety information about their building and that this information is provided in an accessible manner.

9. Do you agree or disagree that residents should be able to request information in an accessible form?

Response: Agree

It is important that residents are able to request this information in an accessible format. We are aware, however, that some residents for whom the original information is not accessible may not know or understand that they can ask for it in a different format. Where the accountable person is not the direct landlord for residents, they would have limited means of identifying residents who may benefit from receiving the information in a different format. We would suggest that accountable persons work closely with the landlords operating in their building and ask them to encourage residents who may benefit from it to request this information in a different format.

12. Do you agree or disagree that it should be up to the principal accountable person to decide how to provide residents with a copy of the residents' engagement strategy?

Response: Agree

We agree that the principal accountable person should decide how to provide residents with a copy of the residents' engagement strategy. We would note that responsible persons also have some responsibilities to engage with residents under the Fire Safety Order. It will be important for principal accountable persons and responsible persons, where they are not the same person, to work together to ensure that there is no conflict between them in their resident engagement work and to avoid confusion for residents.

Whatever methods are chosen, the principal accountable person must account for accessibility needs of residents. If a resident has expressed a preference for a certain method of communication e.g. hardcopy or email, this should be followed wherever possible.

14. Do you agree or disagree with the proposed minimum requirements for when residents should be provided with building safety information?

Response: Disagree

The accountable person should inform residents about building safety works where the associated costs would increase rent or service charge levels. However, other building safety works may be equally as disruptive to residents without necessitating increased rent or service charge levels, particularly works where developers are covering the costs or accountable persons have received funding through government schemes. We believe there should be an additional minimum requirement for the principal accountable person to inform residents about building safety decisions where they expect the works will be disruptive. It would be good practice for residents to be informed of all building safety-related works, in the interest of transparency, providing reassurance and building trust.

15. Do you agree or disagree with the proposed minimum requirements for the aspects of a decision residents should be consulted on?

Response: Agree

We agree that that these proposals set out sufficient minimum requirements for the aspects of a decision residents should be consulted on.

16. Do you agree or disagree with allowing accountable persons to decide how best to seek residents' views?

Response: Agree

We agree that accountable persons should decide how to seek residents' views, as they will be able to adapt as best suits the requirements of their residents. We do, however, think that some guidance or minimum requirements on accessibility should be provided, to ensure that a fair opportunity to engage is provided to all residents including those who may have specific communication needs.

17. Do you agree or disagree with the proposed approach to when the residents' engagement strategy should be consulted on and with who?

Response: Neither agree nor disagree

We agree with the proposed points at which the residents' engagement strategy should be consulted on, but would additionally want to see a requirement to consult on the strategy periodically. This would allow new residents the opportunity to give their views on the residents' engagement strategy and for new and existing residents to raise any concerns that may have developed in the intervening period.

We agree with the proposals for who should be consulted.

18. Do you agree or disagree with the minimum period for consultation?

Response: Agree

19. Do you agree or disagree with the minimum timeframe for reviewing the residents' engagement strategy and the further instances where a review will be required?

Response: Agree

We believe the proposals would provide sufficient opportunities to review the residents' engagement strategy and to respond to any potential concerns within a reasonable timescale. We would add that the principal accountable person should

consider any request from residents to review the residents' engagement strategy and any concerns raised between the regular reviews.

20. Are there other specific circumstances that should require a review of the residents' engagement strategy?

Response: Yes

If a complaint related to resident engagement in building safety matters has been upheld by the Building Safety Regulator, that should require a review of the residents' engagement strategy.

Whilst we do not think any request from a resident to review the strategy should require a review, we would expect the principal accountable person to appropriately consider any requests. If the request raises a substantive matter of concern with the residents' engagement strategy, the principal accountable person should take appropriate steps to address that concern. They should respond to the resident if they do not decide to conduct an additional review and inform them of when the next scheduled review is due to take place.

21. Do you agree or disagree with the approach that anyone can make a relevant complaint?

Response: Agree

Enabling anyone to make a relevant complaint will maximise the chance that building safety issues will be raised and addressed. It should help to improve safety by encouraging a culture where everybody living or working in a higher-risk building is empowered to raise concerns.

22. Do you agree or disagree with the minimum requirements for a complaints policy as set out above?

Response: Agree

We agree that these proposals should ensure that principal accountable persons establish effective complaints processes.

We expect there will be many instances where residents have access to a complaints procedure both through their direct landlord, and the building owner/principal accountable person. Care must be taken to limit confusion for residents about who different complaints should be raised with. Principal

accountable persons must make it clear what complaints and issues they can deal with.

We would expect principal accountable persons to work closely with the subsidiary landlords operating in their buildings, and for both sides to quickly and effectively direct residents to the right place if they have raised a complaint that falls outside their remit.

23. Do you agree or disagree with the requirement to have suitable mechanisms for receiving potential complaints and to consider a complainant's communication preference?

Response: Agree

These requirements will be important in ensuring that residents understand their rights in relation to making complaints. All residents should be provided this information when they move into a higher-risk building.

24. Do you agree with the requirement to display how to make a complaint in the common parts of the building?

Response: Agree

This will ensure that people working in or visiting buildings will be able to find details about how to make a complaint.

25. Do you agree or disagree with the requirements to communicate clearly with complainants when rectifying a relevant complaint?

Response: Agree

It is important that complainants are given this information to understand how their complaint has been dealt with.

26. Do you agree or disagree with this approach to escalating a complaint to the Building Safety Regulator?

Response: Agree

We agree that complainants should have the option to escalate their complaint to the Building Safety Regulator if they are unhappy with their response after

exhausting the accountable person's complaints process. If the issue does not fall within the remit of the Building Safety Regulator, the complainant should be informed of this and, where possible, who their complaint should be directed to e.g. the Housing Ombudsman.

27. Do you agree or disagree with the approach of requiring the principal accountable person to respond to building safety complaints in a timely manner and appropriately prioritise them, rather than within a fixed timeframe?

Response: Agree

We agree that a fixed timeframe to respond to complaints would not be appropriate, given that some complaints may be complex and take much longer to be resolved. All complainants should promptly be told that their complaint has been received and is being dealt with.

28. Do you agree or disagree that the principal accountable person should have to keep complainants regularly informed of the steps they are taking to resolve a complaint and whether any progress has been made, including reasoning for any delays?

Response: Agree

We would also suggest that the accountable person should inform complainants if the complaint does not fall within their remit and advise them where they should direct their issue to e.g. to their landlord if it is in relation to non-building safety property maintenance concerns.

About CIH

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 to be brilliant. 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 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.

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