

CIH briefing on Building a safer future: proposals for reform of the building safety regulatory system

More than two years on from the tragic fire at Grenfell Tower, the government has published its [proposals](#) for a radically new building and fire safety system. These provide a strong indication on areas in which we can expect to see long-awaited changes. They are set out in a comprehensive consultation and are intended to overhaul the system for the design, construction and management of high rise residential buildings by:

- Mandating clearer responsibilities for those building or managing these buildings
- Giving a stronger voice in the system and better information for residents
- Having greater oversight by regulators
- Tougher enforcement when things go wrong

This **briefing** sets out further details on the areas of the consultation that CIH want your views on. It summarises what is in the relevant proposal and then sets out some key questions that we would like you to consider.

Alongside this briefing, we have developed an [online survey](#) to capture your views to help inform our response to the consultation – the questions in this briefing are replicated in the survey for ease.

We appreciate that many of our members will be responding directly to the government consultation. However, we would appreciate your views on how the proposals could work in practice, the impact on your business and the key challenges that you think that specific proposals will raise. The focus of this briefing and the accompanying survey is specifically on the proposals that relate to the duties when people are living in the building in scope (occupation).

Download the full consultation [here](#)

The deadline for the consultation is 31st July 2019. We would appreciate if you could complete the online survey by 22nd July to give us time to feed your views into our response. If you want to discuss any of the detail in the briefing please contact debbie.larner@cih.org

Your views on specific proposals

1. Scope of the new regulatory system



The Hackitt review initially recommended that the new regulatory system should apply to buildings of 30 metres and above (10 storeys). The government proposes that this should be extended to apply to all residential buildings **18 metres and above** (6 storeys).

1. **Do you agree that the new regime should apply to residential buildings of 18 metres or more?**
2. **What will the impact of extending the proposed for your organisation (number of buildings in scope, resource implications)?**

The government is also considering whether to include some categories of supported/ sheltered housing in the new regulatory system.

3. **Do you support this proposal – if yes, on what basis should government determine what categories should be in scope?**
4. **Is there any other comment you want to make about the scope of the new regulatory system?**

2. Introduction of a safety case

It is proposed that a new **safety case approach** is introduced which manages the risk in buildings in scope and includes:

- a comprehensive description of the building – including information on preventive measures and protective systems
- an understanding of the life-critical risks (for fire and structural safety) and evidence about how they are being proactively and proportionally managed for safe occupation; ‘as built’ information
- evidence gained through regular inspection, reviews and maintenance of the building
- the safety management system for the building, which sets out the management structure employed
- evidence of continuous improvement over time i.e. a living document that references the most up-to-date versions of supporting evidence
- mandatory occurrence reporting – similar to what is practiced in the Civil Aviation industry where systems are in place to facilitate whistleblowing and reporting of fire and structural safety issues by staff
- emergency preparedness so that appropriate actions are taken to mitigate hazards and minimise incidents
- evidence that legislation, requirements, standards and policies applicable have been met or complied with reference to other documents, such as a Resident Engagement Strategy, a Fire and Emergency File and any relevant structural or



fire safety inspections.

5. Do you agree with the proposed content for the safety case (set out above)?
6. Is anything missing that you would expect to be included?
7. What are the challenges in compiling and maintaining the safety case for your existing buildings?
8. Is there any other comment you want to make about the safety case proposals?

3. Duty holder/ accountable person

Government propose to introduce a new dutyholder regime across the life cycle of the building. During the occupation phase government intends to create in law an **accountable person** who will be legally responsible for ensuring building safety risks to occupants are reduced “as far as reasonably practical”. The accountable person must:

- ensure that buildings which are in scope of the new regime and are under their control are registered with the building safety regulator
- ensure that the building safety regulator has been provided with an address in England or Wales at which the building safety regulator can serve notices on the accountable person
- ensure that a named building safety manager is appointed for each of those buildings, that the building safety manager meets the competency requirements set by the building safety regulator and are registered with the regulator
- ensure that adequate measures are in place to manage building safety in those buildings, including ensuring that the building safety manager has access to the funding and co-operation necessary to carry out their function
- comply with all requirements in the building safety certificate that will be issued by the building safety regulator
- carry out and provide the building safety regulator with a safety case demonstrating that they, as the accountable person, are taking action to ensure that the building safety risk to occupants is reduced so far as is reasonably practicable and complies with all requirements arising from the safety case
- be responsible for the “golden thread” of building information

9. Do you agree with the minimum requirements of the accountable person (set out above)?

The accountable person will be the person who has the right to receive funds (rent, service charges etc) which “contribute to the cost of maintenance and upkeep of the

structure of the building” and has “control of the building”. This can be an individual, partnership or corporate body.

10. Are there any examples of building ownership and management arrangements where it might be difficult to identify/ apply the role of accountable person?
11. Who in your organisation would you see as being the accountable person?
12. What training/ support would they need to fulfill the requirements listed above?
13. Is there any other comment you want to make about the role and function of the dutyholder or accountable person?

4. Building safety manager

The consultation proposes that the accountable person appoints a **building safety manager** to “carry out the day to day functions of ensuring that the building is safely managed and maintained, including engaging residents and overseeing safety works, and others employed in management, maintenance or checks of the building”.

Duties and functions to include:

- ensure that those employed to maintain and manage the building have the necessary skills, knowledge and experience
- maintain information management systems to facilitate safe management of the building
- maintain the safety case for the building so that risks are proactively identified and mitigating measures put in place and maintained
- ensure that necessary and appropriate building remediation is undertaken to ensure that the conditions set out in the building safety certificate are met
- engage with residents in safe management of their building through a Resident Engagement Strategy that includes routes of escalation for resident concerns
- ensure that fire risk assessments for the whole building are undertaken and reviewed regularly and any recommendations are undertaken in a timely manner
- be responsible for reporting mandatory occurrences to the building safety regulator.



14. Do you think that with the proposed duties and functions of the building safety manager (set out above) are deliverable?
15. What would the resource and capacity issues of this new role be for your organisation?
16. How easy do you think it would be to recruit a person to this role (with the right level of experience, competence and qualifications)?
17. Is there any other comment you want to make about the role and function of the building safety manager?

5. Building safety certificate

Government is proposing that all buildings in scope will need to be registered and obtain a **building safety certificate** from the new building safety regulator.

The certificate will identify the accountable person, the building safety manager, the buildings in scope and the conditions for ensuring the building is safe for residents. These will include mandatory, voluntary and special conditions.

It will be mandatory for a summary of the building safety certificate to be displayed in a prominent part of the common parts of the building, so that occupants can readily identify who is responsible for the safety of their building and the conditions that must be complied with.

Mandatory conditions are likely to mandate the **accountable person** to:

- ensure those employed in the maintenance and management of the building's safety have sufficient skills, knowledge and experience to meet the building safety requirements
- secure and provide sufficient funds and co-operation to ensure appropriate building safety management
- establish or maintain information management systems including provision of the golden thread
- operate a safety case regime where risks and mitigations are proactively identified and mitigated
- engage residents in the safe management of their building through a Resident Engagement Strategy including routes of escalation for concerns, and providing required information to residents
- ensure fire risk assessments are undertaken for the whole building and reviewed regularly and any recommendations are undertaken in a timely manner



- establish and operate a mandatory occurrence reporting regime

18. Do you agree with the proposal to mandate that all buildings in scope must be registered and obtain a building safety certificate?

19. Do you foresee any challenges in complying with the mandatory conditions (set out above)?

20. What are the practical challenges of introducing this approach?

21. What do you think is a reasonable transition period for the registration of existing buildings?

22. Is there any other comment you want to make about building registration and/ or the building safety certificate?

6. Information for residents

Government is committed to ensuring that residents have access to the **information they need** about building safety in a clear and accessible way and to also make clear the role that residents should play in keeping their buildings safe.

As a minimum, the following information will need to be proactively provided to residents:

- measures in place to mitigate potential fire and building safety risks to residents, e.g. fire precautions
- how to reduce the risk of fire in individual dwellings e.g. by not storing flammable material
- process for reporting a fire risk and/or raising any other safety concerns
- procedures to follow where a fire occurs in the building, including for evacuation
- the different roles and responsibilities of the accountable person, building safety manager and residents
- key information from the Resident Engagement Strategy e.g. contact details of the accountable person and Building Safety Manager

23. Do you agree that the list of core information that must be provided to residents (set out above) covers the right things? Is there anything missing?

24. If you currently provide some (or all) of this information - what formats do you use to ensure it is understandable and accessible?



25. Would you intend to provide this information to just your residents or would you include others (sub-tenants, visitors, other occupiers)?

26. Is there any other comment you want to make on the proposals to provide information to residents on building safety?

7. Residents' responsibility

Government are considering introducing a new **requirement on residents** to “co-operate with the accountable person/ building safety manager”

27. How do you envision that this requirement would work in practice?

28. Are there any specific requirements that you would consider appropriate?

29. What measures would you need to be in place to enforce this requirement?

8. Building safety regulator

The new regime will be overseen by a **new building safety regulator**. It is proposed that the regulator will have broader responsibilities than initially proposed – including oversight of the work to drive high standards and increased competencies. The model, structure, home, lines of reporting, capacity and expertise of the building safety regulator have yet to be determined.

At a national level the building safety regulator will be responsible for:

- Oversight of the enforcement of a more stringent regulatory regime for buildings in scope of the new regime including:
 - maintaining a register of buildings in scope and who the dutyholder(s) are for those buildings
 - ensuring an effective system is in place for inspecting buildings and building safety information to ensure that dutyholders are complying with the regime throughout the lifetime of the building
 - providing guidance for dutyholders relating to buildings in scope
 - ensuring that whistle-blowing, resident concerns and mandatory occurrence reports are effectively collected and acted upon by regulators and industry appropriately
 - advising the government on changes that should be made to the scope of the more stringent regime
- Oversight of the competence of professions and trades working on buildings



- including:
- establishing a committee, comprising of industry bodies, independent experts, building owners, and residents to provide cross-discipline peer review, support and challenge functions to drive competence
 - maintaining a register of those competent to undertake key roles in the new regulatory system for buildings in scope of the new regime (Principal Designer, Principal Contractor and building safety manager)
 - providing guidance on selecting competent people and signposting dutyholders to organisations which approve competent individuals to work on buildings in scope
- Oversight of the building safety and wider regulatory system as a whole, including:
 - monitoring and driving improved performance across the building safety and wider regulatory system
 - advising on and preparing proposals for changes to building regulations as needed
 - overseeing development of appropriate technical guidance
 - championing building safety and quality, and the interests of residents, including working with the construction industry to spread best practice and encourage innovation
 - advising industry and Government on research into new or emerging risk
 - working with other regulators and enforcement bodies to achieve safety and other outcomes for buildings
 - reporting regularly on the performance and overall health of the building regulatory system

30. Do you think there is anything missing from the proposals for the new regulator's role (set out above)?

31. Do you agree that the regulator should have oversight of the competencies of professions and trades? If not – who should be have this function?

32. How do you see the interaction between the new building safety regulator and existing regulators (e.g. Regulator for Social Housing)?

33. Is there any other comment you want to make about the building safety regulator?



Your overall view of the proposals

- 1. Taken as a whole, what challenges do the proposals raise (including practical application, resource, capacity and funding)?**
- 2. Are you clear on the potential legal and regulatory liabilities proposed in the new regime?**
- 3. How do you think the transition to the new system might work (including timeframes)?**
- 4. Do you think the proposals give assurance/ clarity about how to deal with issues across all tenures (including private sector landlords and leaseholders)?**
- 5. Do you think the new regulatory and legal powers proposed are sufficient to support the deliver of the new regime?**
- 6. Are there any specific issues you are concerned about not covered in the consultation?**