

CIH response to the final report of Building a Safer Future: Independent Review of Building Regulations and Fire Safety

About CIH

The CIH (Chartered Institute of Housing) is the professional body for people who work in the housing sector. For over 100 years, we have been the independent voice for housing and the home of professional standards. We have over 16,000 members across the UK, Canada and Hong Kong.

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.

General comments and CIH member feedback

CIH welcomes the opportunity to comment on the final report of the Hackitt review. Our response focuses on areas where CIH feels that further clarification or consideration is needed, how certain recommendations could be implemented and the potential impact on the wider housing sector. As the professional body for the housing sector our interest and expertise relates specifically to the recommendations that relate to the management of buildings, relationships with residents, procurement, and the competency of our own profession.

On the whole we welcome Dame Judith Hackitt's report which is comprehensive, hard-hitting and recognises many of the issues which need to be tackled in relation to the design, construction and occupation of higher risk residential buildings (HRRBs). We feel Dame Judith has taken a considered and proportionate approach and as such we are supportive of the majority of the recommendations in the final report. 72% of members surveyed strongly agreed or agreed that the recommendations cover all the important issues related to fire safety in high-rise residential buildings. However, there are some issues that may need further consideration and clarification in relation to the detail.

Despite this, almost a quarter of our members surveyed do not think that the recommendations go far enough to significantly minimise the risk that a tragedy like Grenfell could happen again. Reasons given included:

- there is still too much reliance on self-regulation and not enough prescription
- in order for the recommendations to be impactful, many will require legislative and regulatory changes – it is unclear whether government has an appetite for this
- the final report does not seek to address some of the fundamental issues that the interim report identified about Building Regulations – for example, the complexity, accessibility and ambiguity of the Approved Documents. However this may be



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addressed by the recently announced consultation paper: *Clarification of Approved Document B and Next steps for Part B of the Building Regulations* and the commitment for a wider technical review in the Autumn

- recommendations around residents' responsibility assume a far greater level of landlord control that currently exists
- there is a lack of competence, skills and knowledge throughout the industries impacted to deliver change

There was a view among our members that, while the recommendations will have a significant impact on the fire safety of new buildings, some are concerned that they do not mandate enough of a change in practice for the management of **existing blocks** that are not subject to major works.

We recognise that there has been a lot of discussion and debate on whether the report should have explicitly recommended a ban on the use of combustible cladding. We can absolutely understand why people would want certain materials banned, but we also understand the point made by Dame Judith Hackitt and indeed the London Fire Brigade that a ban might not actually prove effective in the long-term. There has clearly been an issue with the use of combustible materials, but the problems identified are so far-reaching that the only way to make sure something like this never happens again is to create a new system of regulation, testing and management which increases accountability across the board. Although we agree that it was not with the remit of Dame Hackitt's report, it is clearly an important point for many people (including many of our members) and something that needs further consideration. We therefore welcome the recent government consultation on banning the use of combustible materials in the external walls of high-rise residential buildings.

As with any review of this nature and size, the issues will be in the detail of the recommendations and how they are actually implemented and adopted. It will be important that government listens to relevant bodies and sectors to ensure that they are implemented consistently and that they do not result in any unintended consequences in practice.

Specific CIH comments

Scope of recommendations (Chapter 1)

We understand the need to define the parameters to which the new regulatory framework will apply, especially taking into consideration the skills and resource implications of a broader definition. However, the decision to focus the framework on multi-occupancy higher risk residential buildings over **10 storeys** applies to the height of building alone and does not take into account the different groups who live in such buildings. We do not feel that "high risk" can be based on height alone and would recommend that the regulatory framework should be based on a number of defined risk factors such as vulnerability. If a height definition is to be adopted, we strongly recommend that the framework should apply to multi-occupancy higher risk residential buildings over **six storeys** (or 18 metres high) and a wider risk based approach is rolled out subsequently.



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However, whatever the definition adopted for regulatory purposes, there is no reason that recommendations that relate to wider fire safety principles and tenants' voice could not be applied immediately across all multi-occupancy buildings regardless of height – specifically accommodation that houses vulnerable or elderly people. Our members are already adopting this approach.

Introduction of a Joint Competent Authority (JCA) (Chapter 1)

Generally, we support the principle of developing a new regulatory framework that will be overseen by a new Joint Competent Authority (JCA). It is sensible to bring together the knowledge and expertise of three existing bodies (Local Authority Building Standards, fire and rescue authorities and the Health and Safety Executive (HSE)). Including the HSE strengthens the power to take action where there is non-compliance.

We were pleased to see that the JCA will oversee fire safety risks throughout the life cycle of a building and agree that the key responsibilities set out in the final report are the right ones.

We can foresee some challenges in the set-up and operation of the new regulatory framework in practice:

- the JCA will initially need to set up and agree a new standard which will have to be applicable to both social and private sector landlords
- there may be an initial capacity issue as both local authorities and fire and rescue services have lost significant resource over the years
- the assumption is that the JCA will operate at a local level – there may therefore be some challenges of consistency of approach across local areas
- it may present a challenge to have two of the bodies working at a local level and the third (the HSE) at a national level (this may prove especially difficult across the devolved nations where fire safety is devolved, but health and safety is not)
- there may be a conflict of interest as the local authority may, in some cases, be responsible for regulating itself thus undermining the independence of the agency
- who will have ultimate responsibility in the event of any disagreement/dispute within the JCA and in relation to the JCA and the dutyholder?

Residents' rights and responsibilities (Chapter 3)

There are some challenges in implementing the recommendations in this chapter across the social, private rented and leasehold sectors. Our members are mainly focused on delivering and managing housing in the social rented sector. Broadly, they support the overall direction of the review and will welcome any constructive recommendations to improve the safety of the buildings they own and manage. However, the private rented sector is currently largely unregulated and, as we found out post-Grenfell, it has proved difficult to identify owners/landlords of high-rise buildings in the private sector. In this respect, measures may prove difficult to enforce in this sector.

Even within the social rented sector, there are significant levels of complexity of occupation in high-rise buildings - tenants, leaseholders, sub-lets, and short-term occupancy, for example via Airbnb. This poses challenges for landlords in relation to access arrangements, engagement with occupants, rights and responsibilities and enforcement. It can also present



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a challenge for landlords to know who is living in a building at any one time which could make it difficult to develop a cohesive fire strategy for the building (including identifying those who are vulnerable).

It will be imperative to enable the dutyholder to “access flats appropriately for inspection”. As we know, breaches of compartmentation can be caused by residents making improvements in their homes and/or utility companies.

Currently, with the exception of carrying out gas safety checks, landlords have no right of access into individual flats to be able to ensure that residents “maintain safety measures inside flats to a suitable standard”(para 3.45). Current fire safety legislation (Regulatory Reform (Fire Safety) Order (FSO)) relates only to communal areas in blocks of flats. It is likely that legislation will be required to provide landlords with an undisputed right of access (in statute) to ensure fire safety compliance. This would need to apply to both tenants and leaseholders. The present legislative framework allows for too much ambiguity and takes too long.

The review also seems to assume that landlords have stronger powers of enforcement than they actually have. It states that dutyholders “may require actions from tenants, leaseholders and landlords” (para 3.46).

Currently, landlords can only deal with persistent breaches of fire safety through existing tenancy conditions. This is resource intensive, takes significant time and would not address any immediate safety concerns.

The issue becomes even more complex in relation to leaseholders where there is no power to enforce breaches to fire safety (e.g. replacing non-compliant front doors).

Dutyholder and Building Safety Manager (Chapter 3)

We were pleased to see the recommendation to introduce a dutyholder role, with a clear and proportionate package of responsibilities across the life cycle of a building. We agree that the responsibilities and the accountability of the “responsible person” (introduced under the Regulatory Reform (Fire Safety Order 2005)) were often unclear and inconsistent.

We also welcome the strong focus on behavioural and cultural change and the subsequent focus on outcomes rather than prescription – landlords (specifically in the social sector) are competent to drive the changes needed without the need for government intervention. However, this may prove more of a challenge in the private sector and in relation to leaseholders.

We agree with the requirement for the dutyholder to ensure that the involvement of residents will be at the heart of this new approach and support the introduction of a resident engagement strategy.

However, while the dutyholder remains “accountable” there is quite a wide scope for delegation of responsibilities to a named Building Safety Manager (BSM). This may cause difficulties in specifying the role, outcomes and competencies of the BSM (see below).



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While we welcome the principles behind the introduction of a BSM, we are not clear whether this needs to be an actual role or a function within existing role(s). 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. We advocate an outcome-based framework for this function/role (what is required) and the ability for landlords to define the delivery (how it is achieved). However, 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.

The glossary defines the building safety manager as a “named individual (natural person) with the relevant skills, knowledge and expertise to be responsible for the day to day management of the building and act as a point of contact for residents **on building safety**”. This is more narrowly defined than in the recommendations which states “a named ‘building safety manager’ with relevant skills, knowledge and expertise to be responsible for the day-to-day management of the building and act as a point of contact for residents”.

This is a small but significant difference and would affect the skills and competencies required to deliver the role as the latter implies a wider resident engagement role.

Our members also highlighted the important role that housing association boards and local authority housing cabinet members/committees will play in holding the organisation (and dutyholder) to account on fire safety and resident engagement.

Fire risk assessments (Chapter 3 and 4)

We have previously challenged the approach to Fire Risk Assessments (FRAs) in relation to:

- the competency of people who carry them out
- the suitability of the assessment against the “risk” of the building
- how frequently they are expected to be undertaken
- how accessible the assessment and resultant actions are to residents

We believe that the recommendations go some way to addressing these concerns. The link with the JCA will also be critical in this respect.

We support the principle behind Recommendation 4.2 that “residents of HRRBs should have the **right to access** fire risk assessments, safety case information on maintenance and asset management that relates to the safety of **their homes**”. However, the information must be provided in an accessible, understandable way that is tailored specifically for residents. We are concerned that just publishing a full fire risk assessment, for example on a website, could take us back to a “tick box” approach. Many of our members are already developing tailored and accessible information on fire safety using a range of mechanisms. We would be happy to discuss this in more detail.

It would also be helpful to understand the meaning of “in the home” in this context. Does this relate to an individual dwelling, communal areas and/or the building as a whole?



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Residents' voice (Chapter 4)

The Grenfell Tower fire raised a number of further, much broader questions about the accountability of landlords to their tenants and how tenants' voices can be heard at both a local and national level. CIH was therefore pleased to see a chapter focusing on this issue. As well as some recommendations that address issues directly related to assurance and accountability on fire safety, the review actually went much further. We urge government to adopt the recommendation to fund organisations to provide advice, guidance and support to residents and landlords on effective resident involvement in order to develop a national culture of engagement for residents of all tenures.

The review acknowledges that this is an area where the government is already considering policy change. It will be important to ensure that government join up the recommendations in the review with wider changes, therefore it is disappointing that the Social Housing Green Paper is now not likely to be published until the autumn.

Competencies (Chapter 5)

We welcome the focus on improving competencies across the professionals involved in the design, build and management of HRRBs. We agree that this should be developed and led by the appropriate professional bodies across the sector. However, as the professional body for the housing sector, we were surprised to note that housing was not noted as a "key profession" (para 5.14). Over and above the BSM, housing professionals will have a key role to play in ensuring the fire safety of buildings in occupation, supporting residents and ensuring overall compliance. As the professional body, we welcome the opportunity to discuss with MHCLG the role that we can play in ensuring that our sector has the right skills, knowledge and competencies to deliver against the new framework.

CIH is pleased to be involved in the Industry Response Group Steering Group on Competencies for Building a Safer Future: WG8 Building Safety Managers. It is important that the housing sector is involved in taking this work forward – although we believe that the competencies being considered should go wider than the BSM role. As part of this work, we are scoping the potential for a housing sector developed package of training, qualifications, CPD and accreditation.

In addition we welcome the proposal in Appendix E that "there is a role for each professional body to deliver a programme of fire and system safety-related CPD, and for this to be mandatory for individuals accredited by the respective professional body." We are considering how this can be introduced for all CIH members

Again, we would welcome the opportunity to discuss this with MHCLG.

Golden thread (Chapter 8)

Generally, we support the creation of a digital record for every HRRB 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 construction and to all subsequent changes during occupation. We agree that there are significant



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benefits to be realised through the use of building information management (BIM, in this respect, during the occupation and maintenance phase of the building life cycle.

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 their need to support the safety case file clearly identified.

We can foresee some challenges in the set-up of the digital records:

- existing IT systems will need to be considered to ensure that they have the capability and capacity to handle the digital records
- the integration of BIM is a complicated process that can run through a number of departments
- achieving a consistent approach, utilising a single system for new and existing buildings will need to be considered. BIM for current stock is not yet common practice
- an appropriately open data format for holding records will need to be considered and agreed

Procurement (Chapter 9)

We agree with the view that “principal contractors and clients should devise contracts that specifically state that safety requirements must not be compromised for cost reduction.” However, specific guidance may have to be issued by the Regulator of Social Housing to ensure that there is no conflict with social landlords complying with this sensible approach at the same time as possibly conflicting with the need to demonstrate value for money.

We hope you find our response constructive and useful. We would welcome the opportunity to discuss any aspect of our response with officials.

Debbie Larner - head of practice, CIH

E: debbie.larner@cih.org

T: 02476 851787

M: 07966 018786