

INDEPENDENT REVIEW ON BUILDING REGULATIONS AND FIRE SAFETY: CALL FOR EVIDENCE

HEALTH AND SAFETY LAWYERS' ASSOCIATION RESPONSE

INTRODUCTION

The independent review of Building Regulations and Fire Safety led by Dame Judith Hackitt aims to make recommendations to ensure a sufficiently robust regulatory system for the future and to provide further assurance to residents that the buildings they live in are safe and will remain so.

The Health and Safety Lawyers' association invited its members to respond to a number of questions posed by the call for evidence, particularly those more focussed on legal requirements, responsibilities, enforcement and sanctions, through a survey distributed to its members. Members could provide views anonymously.

RESPONSES TO QUESTIONS

Question 1: *To what extent are the current building, housing and fire safety legislation and associated guidance clear and understood by those who need to follow them? In particular:*

What parts are clear and well understood by those who need to follow them?; and, if appropriate Where specifically do you think there are gaps, inconsistencies and/or overlaps (including between different parts of the legislation and guidance)?

What changes would be necessary to address these and what are the benefits of doing so?

At best we feel there is partial understanding but overall feel that understanding is poor and particularly when design, product or facility changes are made during construction. In terms of what is clear and well understood, the Regulatory Reform Fire Safety Order (RRFSO) and the requirements of building control versus those of the fire brigade, were cited.

We feel there are misunderstandings around the application of Fire Safety: Approved Document B due to the way it has been drafted and its volume. In comparison, other health and safety regulation and guidance is much more clearly defined. A significant gap the legislation /guidance is in the treatment of the evacuation of buildings, in particular tower blocks, which is rarely considered.

To address these points, we suggest:

- Clearer guidance and better competence amongst risk assessors;
- Legal guidance/ ACOP to the Regulatory Reform Fire Safety Order, which references the application of such guidance;
- Consolidation of guidance/ guide or road map on what to apply/ when
- Inclusion of evacuation procedures and facilities in the regulations and particularly as factors in granting planning permission.

Question 2: *Are the roles, responsibilities and accountabilities of different individuals (in relation to adhering to fire safety requirements or assessing compliance) at each key stage of the building process clear, effective and timely?*

Hardly - we recognise it is challenging where there are large numbers of parties involved. Requirements for cooperation and coordination are often misunderstood and with complex landlord/ managing agent arrangements and contracts, owners are often not fulfilling requirements and tenants are then replying them.

Question 3: *Does the current system place a clear over-arching responsibility on named parties for maintaining/ ensuring fire safety requirements are met in a high-rise multi occupancy building? Where could this be made clearer? What would be the benefits of doing so?*

Hardly - inclusion of flow diagrams in guidance or ACOP in a similar fashion to the Construction Design and Management Regulations 2015 could aid clarity.

Question 5: *Is the current checking and inspection regime adequately backed up through enforcement and sanctions? In particular:*

Where does the regime already adequately drive compliance or ensure remedial action is always taken in a timely manner where needed?

Where does the system fail to do so? Are changes required to address this and what would be the benefits of doing so?

We do not believe the current regime is adequately supported through enforcement and sanctions. The system fails to drive compliance or ensure remedial action because of inadequate inspection and follow-up and inefficient prosecutors. Additionally, individual fire services take different approaches and often seem inconsistent.

Introducing change to bring home to duty holders non-compliance will not to be tolerated is required. Given the variation in approach amongst fire services, a consolidation of enforcement decisions by fire services would be beneficial. As a suggestion, this maybe a potential role for the HSE or CPS.

Question 8: *What would be the advantages/disadvantages of creating a greater degree of differentiation in the regulatory system between high-rise multi occupancy residential buildings and other less complex types of residential/non-residential buildings?*

Overall, we feel there isn't a rationale for a different approach, unless it is risk-based. There may also be other building types that fall into the higher risk category that are not necessarily high-rise, multi occupancy residential buildings. The law should be applied in a focussed way to the situation.

Question 10: *What examples of good practice from regulatory regimes in other industries/sectors that are dependent on high quality safety environments are there that we could learn from? What key lessons are there for enhancing fire safety?*

We think that the experiences of the major hazard sectors such as oil and nuclear in respect of the issues questioned in this review are pertinent and offer learning points, in how they have responded to catastrophic events.

The approach taken by CDM in defining duty holder roles and responsibilities over a multi-stage project may offer a framework for considering fire safety.

ABOUT THE HSLA

The Health and Safety Lawyers' Association (HSLA) is a national organisation aimed at those practitioners and academic lawyers who have an interest in an area of law that is rapidly increasing in scope and importance.

Its aims and objectives include:

- To promote the development of health and safety law;
- To further research and educate and train its members in the discrete area of health and safety law;
- To promote the expertise of its members in dealing with issues of health and safety law.

HSLA seeks to include not only practitioners within the legal profession, but also academic lawyers whose areas of study include an interest in health and safety law. It aims to place emphasis on the increasing awareness of legal health and safety duties and the way in which they are complied with, enforced, investigated and ultimately form the basis for action in court. It currently has some 500+ members.

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