

# Building Safety Reform

## The Path Ahead

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# Agenda

- Recap on the context for reform
- Progress to date
- Overview of the Hackitt review
- Key themes from the Government consultation
- Impact beyond England

# THE REFORM STORY SO FAR ...

# Dame Hackitt's Report

- Review of fire and building regulations in light of the Grenfell Tower tragedy on 14 June 2017.
- Interim Report – Dec 2018
- Final Report- May 2018
- Sets out principles for a new regulatory framework
- 53 recommendations made to government

# Key Hackitt recommendations

- Central conclusion - the system is broken
- A new regulatory framework which will drive culture change and new behaviours
- A clear model of risk ownership - clear responsibilities for Client, Designer, Contractor, Owner and Manager
- Duty holders to be overseen and held to account by Joint Competent Authority
- Outcomes based - not prescriptive rules and complex guidance
- Applies to HRRBs and buildings with sleeping risk

# E&W Ban on combustible materials

- Amendments to the Building Regulations 2010 came into force on 21 December 2018 to limit the use of any materials used on the **external walls** of building higher than 18 metres to European **fire rating of Class A2-s1, d0 or better**. Limited transitional provisions.
- Private Sector Remediation fund has been created to remove ACM cladding on high rise residential above 18m
- Building owners required to take reasonable steps to recover the costs from those responsible for the presence of unsafe cladding.
- Local Authorities have power and financial support to **remove and replace unsafe** cladding on private buildings (Amendment to Housing Health and Safety Ratings System “HHSRS”).

# Scottish ban on combustible materials

- Buildings of over 11 metres in height, compared to 18m in England
- Residential buildings
- Entertainment and assembly buildings, residential care homes and hospitals of any height.
- Aluminium composite material (ACM) used for cladding on these buildings must be of European classification A2 or above.
- Comes into force 1 October 2019

# KEY THEMES FROM THE UK GOVERNMENT CONSULTATION

# Buildings in scope – proposals

**Hackitt:** new and existing residential properties 10+ storeys (30m)

## **MHCLG:**

- new and existing multi-occupied residential properties 6+ storeys (18m)
- Possible extension to non-residential multi-occupied buildings where vulnerable people sleep:
  - Hospitals, care homes, sheltered housing hotels, prisons, halls of residence, boarding schools.

# Buildings in scope – problem areas?

- Residential buildings under 18 m – second class citizens?
- **Home Office consultation on the RRO**
  - Not really setting out proposals for change – more of a review
  - Higher risk workplaces – including non-residential buildings where people sleep
  - Mixed use buildings generally – and how will it interact with any legislation introduced for buildings over 18 m with residential element

# The regulator

## Hackitt

- a “Joint competent authority”
- HSE, FRS, LABC
- Experience of the Joint Regulators Group set up to explore how this could work

## MHCLG

- A new building safety regulator
- Or potential new function of an existing regulator?
- How will it interact with existing regulators?
- Interim fire protection board

# The role of the building safety regulator

- Oversight of the building regulatory system
- Oversight of industry competence system
- Ombudsman-type role for resident complaints
- Oversight of mandatory occurrence reporting
- Cost-recovery model
- Tough enforcement powers backed up by penalties akin to health and safety law
- Issues
  - Competence
  - Resourcing
  - Another layer of complexity?

# New Duty Holder roles

- **During design/construction and refurbishment:**
  - Aligned with CDM
  - Client, Principal Designer and Principal Contractor etc
  - Over-arching duties to ensure building safety and to certify compliance with the Building Regulations
- **During occupation:**
  - New “accountable person” – usually the owner
  - An appointed building manager
- **Named directors where duty holders are organisations**

# Issues for individuals

“Dutyholder roles can be fulfilled by either an individual (defined legally as a natural person) or a legal entity. However, we are considering whether, where this is discharged by a legal entity, there should be a single accountable person at board level who can be identified as having responsibility for building safety”

# Overview of Gateway System

- Duty holders must demonstrate how they are ensuring building safety to gain approval of the new regulator to proceed to the next stage to development.
- Gateway 1 – Before planning permission is granted
- Gateway 2 – Before construction begins
- Gateway 3 – Before occupation begins

# Gateway 1 – planning permission

- Only applies to buildings over **30 metres (on average 84 buildings a year)**
- A Fire Statement must be submitted with the planning application
- Local authority to consult the FRS (should fire authorities be statutory consultees?)
- Focus is on FRS access in an emergency and water availability only
- Potential extension to developments “in the vicinity” of such buildings

# Gateway 2 – Before Construction

- Greater dialogue with the regulator at an early stage
- Submission of:
  - **Full plans** produced by the PD with detailed specification in relation to fire and structural safety and how risks will be managed
  - **3D digital model of the building** “as planned” including products to be used
  - **Fire and Emergency File** building on the Fire Statement, to be prepared by the PD and updated during construction
  - **Construction Control Plan** – by the PC setting out how compliance will be achieved during construction and change control procedures

# Gateway 2 - continued

- An inspection regime must be agreed with regulator
- No building work until approval obtained from the regulator – a “hard stop”
- A phased approach is possible for complex projects
- PC must consult Client and PD before deviating from original full plans. These are recorded in the Change Control Plan
- The regulator must approve any proposed “major changes” in advance
- The end of value engineering?

# Gateway 3 – Before occupation

- Declaration of compliance with Building Regulations
- Duty holders to hand over as-built building safety information to the accountable person
- Registration of the building
- Registration of the accountable person and appointed building manager
- Submission of the safety case
- Building safety certificate – with conditions attached
- No certificate, no occupation

# During occupation – safety case

- Identifies hazards
- Describes how risk are controlled
- Details safety management system, including emergency procedures
- Reviewed every five years
- Only the building safety regulator may transfer the Accountable Person's accountability under the building safety certificate to a third party – implications for sale and restructuring
- Same rules for the Building Manager

# Existing Buildings

- Gateway 3 applied on a phased basis
- Safety case required
- An intrusive survey is recommended as a first step to build an accurate record to support the safety case, e.g. a Type 4 fire risk assessment
- Implementation of a safety management system
- Major refurbishment will trigger Gateway 2 process

# Golden thread of building information

- Maintained and held digitally
- To capture the original design intent and any subsequent changes
- Compliance with BIM standards
- Government will define standards via guidance.
- Key dataset to be stored in spreadsheet format to allow the regulator to compare data. This should be open and accessible by default.

# Competence

- Industry-led
- Organisations in roles of PD, PC and building safety manager must have a nominated individual registered with the regulator as competent
- Professional and trade bodies to create an overarching competence framework for anyone working on buildings in scope – See: “Raising the Bar Interim Report”
- Appropriate level of fire and structural safety knowledge
- Overseen by a separate, independent, stakeholder-led standards committee under auspices of the regulator

# Resident engagement

- “At the heart” of the new system – links in with the role & responsibilities of the accountable person/building safety manager in occupation
- Resident Engagement Strategy
- Pro-active provision of building safety information
- “Culture of openness” – further information to be provided on request – e.g. how assets in the building are managed
- Requirement for residents to cooperate with the accountable person – access and information
- Complaints procedure for raising safety concerns

# Model for future enforcement

- Improvement/ Correction Notices
- Prohibition Notices
- Withdrawal, or conditions attached to building safety certificate
- Civil and criminal sanctions:
  - Carrying out work without Gateway approval
  - Not applying for a building safety certificate
  - Non-compliance with certificate conditions
- Extension of time bar for breach of building regs – either 6 or 10 years

# Scottish response to Grenfell

- Ministerial Working Group on Building and Fire Safety
- Also designed to address structural defects - Edinburgh Schools and DGOne
- Output – 3 reports:
  - Fire Safety content of Building Standards – Dr Paul Stollard
  - Compliance and Enforcement of Building Standards – Professor John Cole
  - Review of Fire Safety for Domestic High Rise Property

# Cole Report

- Scottish Building Control is not fundamentally broken
- Pre-emptive building warrants are a strength
- There are implementation problems
- Cultural change is required
- Training and competence of building control staff
- Lack of building control resources
- Digital evidence
- Verification
- Penalties

# Stollard Report

- National hubs to verify fire safety engineering
- Combustible Cladding Ban
- Escape stairways
- Evacuation Sounders
- Extension of automatic fire suppression systems.

# Fire Safety in Domestic High Rise

- Fire Safety Guidance for Residents
- Scottish Guidance on Fire Safety in purpose built blocks of flats
- Scottish Guidance on Fire Risk Assessments
- Scottish Guidance on fire safety in specialised housing
- Development of a consistent regulatory approach to fire safety enforcement in common areas
- Potential new duty holder role
- Further consideration as part of review of Tenement Management Services

# New fire safety standards for all homes in Scotland

By Feb 2021:

- All homes
- smoke alarm in the living room or lounge, and in circulation spaces such as hallways and landings.
- every kitchen must have a heat alarm
- the alarms will have to be interlinked so they can be heard throughout the property.
- carbon monoxide alarm where there are fixed combustion appliances.

# Amendment of Scottish Technical Handbooks

- Takes effect on 1 October 2019
- Second escape staircases
- Evacuation alert systems
- Storey identification and dwelling indicator signs
- No timetable for changes to the building control system
- Feasibility study launched on a centralised hub for verifying fire safety engineered designs



# WHAT NEXT?

# Key messages

- Construction professional, funders, building owners, agents and managers are going to have to seriously engage with the new regime
- Recognise that it goes beyond traditional building risk areas such as asbestos and legionella management
- That simply appointing someone (anyone?) to manage these risks will not be enough on its own
- This is about “ownership” of the issues as well as the building

# Timeline

- Government Response in the Autumn
- Legislation next year?
- Implementation will take time
- Interim fire protection board
- Current consultation on provision of sprinklers closes 28 November
- NB: response to consultation on Approved Document B – “work will take some years to complete”

# 6 things to take away

- New regulatory regime for all of those involved in construction, building owners and managers with criminal sanctions
- Potentially bureaucratic but cannot simply ignore it and rely on outsourcing (consider client CDM duties!)
- Need to consider how duty holders would meet the requirements – knowledge, resources etc.
- Consider how obligations are passed down and expressed in contracts/leases etc. to reflect the duties and obligations
- Ensure this new regime will be integrated into procurement processes
- Start preparing now – especially the golden thread



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