

Build UK Response to Call for Evidence for the Independent Review on Building Regulations and Fire Safety

Introduction

Build UK is the leading representative organisation for the UK construction industry. By bringing together Clients, Main Contractors, Trade Association representing over 11,500 Specialist Contractors and other organisations committed to industry collaboration, Build UK represents in excess of 40% of UK construction.

As a member of the government's Industry Response Group Build UK's focus in responding to the fire at Grenfell Tower has been to provide advice to government on the capacity and capability within the industry to deliver the works required to ensure the safety of affected buildings.

Q1. 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?

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?

1. The UK's Building Regulation Standards are well-regarded internationally and generally, Build UK members believe that the regulations are clear in terms of their intended outcome (reasonable safety to occupiers and the general public). However, there are views that the Regulations could be improved and Build UK members welcome the Independent Review of Building Regulations and Fire Safety.
2. Build UK believes that the Building Regulations can be improved by:
 - a. More regular review to ensure that regulations keep pace with technological and innovative developments
 - b. Balancing a functional and prescriptive approach, such as introducing additional elements of standardisation, clarifying terminology and strengthening standards of professionalism amongst people.
3. The fire at Grenfell Tower has focused attention on the regulations which particularly relate to the external spread of fire over a building. In particular, the difference in views on how to achieve compliance with the regulations. However, Build UK members urge the Independent Review of Building Regulations to take a holistic approach to the review of regulations.
4. While the prevention of the spread of fire externally is an important element of fire safety, the review must also look at the fire safety mechanisms inside buildings. In addition, fire safety is not the only criteria which contributes to achieving the Building Regulations outcome of reasonable safety. Therefore the review must ensure that any changes to the current regulations associated with fire safety do not have unintended consequences for other important elements of building performance and safety.

Areas to consider

5. There are alternative approaches to compliance. Other than meeting the guidance in paragraphs 12.6-12.9 or meeting the performance criteria in BR 135, there are two other recognised routes. These are (a) the fire engineered approach; and (b) the desktop study of a proposed external wall structure with a BR 135 assessment for an external wall construction similar enough to be considered to perform in the same

manner in a fire situation. With regard to (b), it would be useful to have further detail as to who can carry out such a desktop assessment and what sort of accreditations they need (e.g. is UKAS accreditation required or what other qualifications may be required for the person or firm undertaking the desktop study?).

6. Consideration should be given to simplifying the preambles and explanations in the AD B guidance and to the use of defined terms, particularly those that are key to the correct understanding of paragraphs 12.6-12.9, such as "*external surfaces or walls*" and "*insulation*". A numerical classification (such as A1 and A2, linked to a live web based library of materials) could be a more simple way to regulate.
7. Following on from the last point, consideration should be given to creating a central database of all materials, their classifications following fire safety testing and the test results, which is web-based and freely-accessible by all stakeholders.
8. The current AD B provides different methodologies for measuring the height of a building. Paragraph 12.6 and Diagram 40 measure the building height from ground level to the top of the building. In contrast, paragraph 12.7 measures the height of the highest storey from ground level. The Independent Review may wish to consider the benefit of adopting a single method of measurement covering all aspects of the guidance.
9. In 2002, it was the stated intention of the then Office for the Deputy Prime Minister that the national classification of testing of materials would be replaced by the European classification but this still has not happened. Accordingly, both classifications are referred to in Approve Document B, with Diagram 40 allowing either the national or European classification to be adopted. This presents difficulties in interpretation because, as Diagram 40 acknowledges, "*the national classifications do not automatically equate with the equivalent European classifications*". Adopting the European classification across the board and removing the references to the national classification would reduce the scope for misinterpretation in this regard. The European standards mimic an actual fire situation, rather than the national standard which involves only a small sample exposed to heat. The European standard is therefore a better test for composite materials.
10. Since the fire at Grenfell Tower, the government has published advice which seems to contrast with the Building Regulations and therefore it would be helpful for the review to examine these inconsistencies with a view to aligning building regulations with recent advice. For example, the definition of the core or filler material within an ACM panel which industry has never considered to be 'insulation material'. A further example is that industry understands the guidance for the classification of ACM panels as treating the product as a composite whole, whereas DCLG has suggested that paragraph 12.6 and diagram 40 of AD B is restricted to the outer-most skin of an ACM panel.

Roles & Responsibilities

Q2. Are the roles, responsibilities & 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? In particular:

Where are responsibilities clear, effective and timely and well understood by those who need to adhere to them/assess them?; and, if appropriate

Where specifically do you think the regime is not effective?

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

11. The reality of modern day construction projects is that buildings are designed by a team of individuals often working remotely, for different companies and with different priorities and skill sets. Collaborative design tools where designs are collectively developed including BIM2 can help to provide a more holistic design and consideration should be given to encouraging their wider use by all members of the design team as

- well as those responsible for overseeing compliance with the Building Regulations.
12. In order to ensure reasonable standards of fire safety, consideration should also be given as to whether there should be one individual, company or industry body that vets all designs from a fire safety perspective. Clearly, the relevant individual, company or industry body would need to be properly qualified and accountable.
 13. Consideration should be given to the incorporation of such a requirement into an existing statutory framework, such as the CDM Regulations. Overall, there should be prescriptive, legal requirements applicable to the process to make sure there is accountability for ensuring compliance.
 14. When reviewing the AD B guidance, consideration should also be given to drafting this in sufficiently wide terms so as to be applicable not simply to most types of building commonly encountered, such as high rise residential buildings, but also to more complex types of building or those buildings with higher risk factors. The AD B guidance should be flexible enough (if the current compliance route optionality is retained) to allow for most types of building, including more complex or more risky types.

Q3. 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?

15. See response to Q2 above with regard to making better use of web-based collaboration tools to foster a more holistic development of the design from a fire safety standpoint; identifying the responsible parties and the scope of their responsibility; and improving competencies.
16. Related to this, the Independent Review may wish to consider the efficacy of mandating a specialist, professional association and require anyone who vets and certifies buildings from a fire safety perspective to be a member of such association. Membership would be mandatory for everyone who inspects and certifies buildings on this basis, including those working for local authorities.
17. Any such arrangements would need to carry with them a legally enforceable accountability on the part of the certifying body, backed by appropriate professional indemnity insurance. Insurers would need to be consulted in the setting of competencies and compliance checking procedures for such an arrangement.
18. The association should require its members to evidence their competency in assessing the fire safety of building design and construction on a regular basis (e.g. by way of continuing professional development) in order to retain/renew membership.
19. Build UK is aware that building technology and material technology has moved at a pace which results in the static AD B guidance on fire safety guidance being left behind. The creation of a framework along similar lines to the one referred to above would help to improve standards in the short term and ensure that those standards are able to adapt to, and keep pace with, future developments in the industry. However, in the medium term, the AD B should be updated on a more regular basis.

Competencies of key players

Q4. What evidence is there that those with responsibility for:

Demonstrating compliance (with building regulations, housing & fire safety requirements) at various stages in the life cycle of a building;

Assessing compliance with those requirements, are appropriately trained and accredited and are adequately resourced to perform their role effectively (including whether there are enough qualified professionals in each key area)? If gaps exist how can they be addressed and what would be the benefits of doing so?

20. See responses to Q2 and Q3 above with regard to improving standards in demonstrating and assessing compliance with the relevant requirements.
21. With regard to the current system, it is noted that the Construction Industry Council is the body appointed under the Building Act 1984 to manage the approval and termination of approved inspectors for the purposes of the Building Regulations. This provides that applicants for approved inspector roles are required to "*possess an appropriate building control qualification and/or be a full Chartered member of one of the professional or regulatory bodies that are full members of the construction Industry Council (normally the RICS, CABE or CIOB). Applicants must also be able to demonstrate at least five years direct experience in a building control environment*". These requirements could be made more stringent and prescriptive by expanding on what is required in terms of "*direct experience*", particularly from a fire safety perspective.
22. It is also noted that possession of "*an appropriate building control qualification*" is not an absolute requirement and that membership of the chartered surveying/engineering bodies would suffice. On becoming an approved inspector, registration is valid for a period of 5 years after which time re-approval is required. Greater stringency on competency and shortening the intervals for re-affirming such competency may help to improve standards.
23. The Construction Industry Council is undertaking significant work in identifying the routes fire safety certification, standards and competence. They advise a National Register of licensed fire safety professionals to support building owners in understand the skills, knowledge and experience of professionals to gain advice on compliance with regulations.

Enforcement & Sanctions

Q5. 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?

24. In the current regime, once a building is certified by a building control officer/approved inspector as being compliant with the Building Regulations, there does not appear to be a developed regime for checking the certification and requiring remedial works in circumstances where such certification of compliance is incorrect.
25. Generally, there appears to be limited accountability for building control officers/approved inspectors where buildings are incorrectly certified as compliant with the Building Regulations, particularly for local authority building control officers/approved inspectors. As noted in the response to Q2 above, building control officers/approved inspectors should be properly qualified to carry out the role and fully liable and accountable for their decisions.

Tenants' & Residents' Voice in the current system

Q6. Is there an effective means for tenants and other residents to raise concerns about the fire safety of their buildings and to receive feedback?

Where might changes be required to ensure tenants'/residents' voices on fire safety can be heard in the future?

26. Given Build UK represents employers within the construction industry we

are not best placed to respond to this section of the call for evidence.

Quality Assurance and Testing of Materials

Q7. Does the way building components are safety checked, certified and marketed in relation to building regulations requirements need to change? In particular:

Where is the system sufficiently robust and reliable in maximising fire safety and, if appropriate

Where specifically do you think there are weaknesses/gaps? What changes would be necessary to address these and what would be the benefits of doing so?

27. The testing certificates of accredited organisations (such as UKAS) are intended to be relied upon to confirm compliance of materials and products such rain screen panels (including ACM panels) with the Building Regulations and particularly in relation to paragraph 12.6 of Approved Document B. However, as noted above, the advice given in the wake of the Grenfell Tower fire has created uncertainty for building owners, tenants and the construction industry. Clarity and certainty on the performance of materials would be welcome.
28. In addition, it is noted that some product manufacturers have withdrawn products from the market or have corrected classifications which points to an issue with the adequacy of the testing and certification programmes of such materials. To ensure greater consistency in testing, it may be necessary to review the testing methods of the various testing houses.
29. Another layer of complication is the existence of the national and European classifications in the AD B guidance, which (as noted above), increases the likelihood of misunderstanding and misapprehension of the capability of products and materials and their compliance with the requirements of the Building Regulations and the guidance in AD B.
30. As noted above, it may help to create a central database of all materials, their classifications following fire safety testing and the test results, which is web-based and freely-accessible by all stakeholders. An additional suggestion from Build UK members is the consideration of standardisation of product descriptions to aid understanding of a product's performance and certification and reduce the risk of misunderstanding.

Differentiation within the current Regulatory System

Q8. 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?

Where specifically do you think further differentiation might assist in ensuring adequate fire safety and what would be the benefits of such changes?

31. We refer to our response under paragraph 14 above. The options allowed for demonstrating compliance within the AD B guidance, are considered to be flexible enough to allow for most types of building, to demonstrate compliance. However, it is noted that the guidance in AD B does not particularise as to what it regards as a standard type of building and a more complex or higher-risk building type. This could be made clearer.
32. However, as noted in the response to Q2 above, it may be useful to require that the professionals inspecting/certifying compliance of more complex or higher-risk buildings (however they may be defined) with the requirements of the Building Regulations and the guidance of Approved Document B, are indeed appropriate specialists with required qualifications and experience.

International Comparisons and Other Sectors

Q9. What examples exist from outside England of good practice in regulatory systems that aim to ensure fire safety in similar buildings? What aspects should be specifically considered and why?

Q10. 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?

33. The regulatory regime surrounding fire safety in the construction industry may wish to consider the approach taken by other industries where failures of equipment, tools and products can lead to death, personal injury and/or property damage. It is noted that the medical and air industries use qualitative checklists before operations and flights etc. to ensure all such equipment, tools and products are in working order.
34. Similar qualitative checklists could be prepared and used by building control officers/approved inspectors to ensure that rain screen cladding systems are suitable to achieve compliance with the requirements of the Building Regulations and the guidance of AD B before they are certified for inclusion in the design, prior to incorporation in the relevant works and upon completion of the relevant works.
35. The air industry also uses fail safe mechanisms whereby the failure of key equipment triggers multiple back-up measures that compensate for the failed equipment. Similar mechanisms could be used in the design, construction and maintenance of buildings in relation to fire safety as part of a fire engineered approach, for example, requirements for a selection of measures from a set menu including sprinklers, fire alarms, smoke detectors, vented common areas, multiple means of escape, fire wardens, external fire breaks, regular fire drills and appliance testing etc.
36. The air industry also appears more amenable to tightening regulatory requirements even after dangerous incidents that do not necessarily result in death, personal injury or significant property damage. The regulation of the construction industry could be more sensitive to dangerous incidents, particularly in relation to fire safety, in order to ensure that it keeps pace with changes and developments in the use of certain products and materials and technology.

Further Information

Build UK would be pleased to discuss any of the issues raised in this response. For further information, please contact:

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