

Building Regulation Team
Ministry for Homes, Communities and Local Government
2 Marsham Street
London
SW1P 4DF

Friday, 2 August 2019

Dear Sir/Madam,

This response is submitted by Build UK, which is the leading representative organisation for the UK construction industry, bringing together Clients, Contractors, Trade Associations, Specialist Contractors, and Professional Services.

Build UK has played a leading role, alongside the Construction Industry Council (CIC) and Construction Products Association (CPA), on the Industry Response Group, which has provided a coherent, consistent and collective response from industry to the events at Grenfell Tower. Build UK is also a member of the Competence Steering Group and has played a major role in the development of its anticipated Interim Report. Build UK supports the findings of Dame Judith Hackitt's report, 'Building a Safer Future'.

The framework in place prior to the Grenfell fire should have been sufficient to deliver buildings that are safe for people to live in. Indeed, in the significant majority of circumstances this is the case. The flaws identified by Dame Judith Hackitt, which led to that fire, infiltrated the system due to a lack of governance and accountability, gradual changes in working practices which became 'acceptable', along with a culture of lowest cost and blurring of responsibilities. We need to be confident that the new regime proposed addresses these issues if we are to achieve the desired outcome.

This consultation is extremely wide ranging and has been extremely difficult to respond to within the time allocated. The content within the consultation is extremely broad and being able to understand and feedback in the detail the subject requires has not been easy. There are significant changes proposed to the current system, presented in a complex and sometimes confusing way and we strongly urge MHCLG to clearly present the outcomes of the consultation in more logical and user friendly way to ensure everyone understands what a new regime will look like, how it will operate and what it will achieve.

We agree that there are issues within the construction and regulatory system and addressing the flaws is key to achieving the shared objective of high-quality buildings in which residents are safe and feel safe.

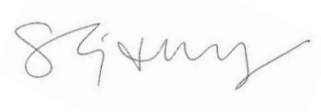
Understanding and ensuring the competency of all involved in the building process will be critical to the success of any new framework. Further information should be provided on how the Government intends to establish the competency of each dutyholder role proposed within the consultation. We would urge MHCLG to consider each of the elements of the proposed framework holistically to ensure issues spanning regulatory systems are considered concurrently and current regulatory requirements are not compromised or duplicated.

Certainty, clarity, and consistency are essential on all the outcomes from this consultation. Further information must be set out around the roles of the dutyholders and their anticipated interactions with other stakeholders. Specifically, any new regime must leave no room for ambiguity and may require additional consultation with industry if it is to be confident of any new regime being fit for purpose.

Finally, MHCLG must be certain that it has the resource to implement and maintain the Building Safety Regulator and Overarching Competence Body, and any part of the regime which requires the input of publicly funded bodies.

We look forward to hearing the outcomes from this consultation.

Yours faithfully

A handwritten signature in black ink, appearing to read 'Sarah Garry', is written over a light grey circular background.

Sarah Garry
Project Director

1. Specific areas of focus:

1.1. Scope of the New Regulatory Regime

- a. We agree any new regime should apply to all new build, multi-occupied residential buildings of 18 metres or more in height. To ensure there is no confusion, reference to six storeys should be removed.
- b. The Government should consider the logic for expanding the scope to non-residential buildings where multiple people sleep. The proposed list is currently determined by the rate of fire in these buildings. However, the Government should consider the mobility and vulnerability of the occupants in both the currently identified 'higher risk workplaces' and other buildings where residents may require special assistance when evacuating a building.
- c. There should be further consultation on the definition of 'appropriate' in relation to major refurbishments to provide absolute clarity on what any new regime applies to.
- d. Furthermore, clarification is required around how the new regulatory framework intends to interact with existing buildings. There does not appear to be any process identified to remedy issues on existing buildings that do not comply with building regulations. The framework should identify, and provide a way to manage, this issue.
- e. It should be clear how the regime would apply if a building's use changes during occupation.

1.2. Dutyholders

- a. We support the introduction of dutyholder roles and responsibilities in design and construction aligned to those identified under the Construction (Design and Management) Regulations 2015 (CDM). Any requirements should not conflict with, or duplicate, existing duties and it may be appropriate to review and amend the CDM regulations to align with any additional building safety requirements.
- b. We agree with the principle of a Golden Thread of information and the dutyholder regime should remove any 'choice' about who has accountability at any particular stage of design, construction and occupation.
- c. Imposing Building Information Modelling (BIM) in this way is not helpful and MHCLG should look at the government and industry BIM strategy and consider in greater detail how it would interact with the new regime.
- d. We support the consistent application of BIM, however the myriad of platforms used at present will not lead to clear and consistent information for designers, constructors and Building Safety Managers. Furthermore, implementing BIM on a project that has no allowance for it will have a significant cost impact.
- e. The implications of a named individual being required by each dutyholder should be clearly set out along with the competencies required and this should be formally considered before any decision is made.

1.3. Gateways

- a. We support the principle of the three 'Gateways'. However, the scope and rationale of each Gateway should be absolutely clear e.g. Gateway 1, as it is currently proposed, would only apply to buildings of 30 metres or more. For the avoidance of doubt, we would ask for confirmation that buildings under 30 metres will not be required to meet the requirements set out for Gateway 1. Government should clarify if it intends to expand the scope for buildings at Gateway 1 to buildings over 18 metres, in line with the other Gateways proposed.
- b. We agree that the Fire and Rescue Authorities should be consulted on new planning applications that may compromise buildings in scope for Gateway 1. Those authorities would be better placed to comment on the definition of 'near vicinity'. However, Fire and Rescue Authorities must be sufficiently resourced for them to assess applications within any time frame.

- c. In addition, there must be a clear timeframe established at each Gateway along with suitable and sufficient resources, allocated by the Government to the Building Safety Regulator to ensure projects are not delayed or costs increased by the approval process. Care should be taken to ensure any timeframe established, at any gateway point, is not too prescriptive and takes account for the context in which the project is set.
- d. We agree the information proposed as required at Gateway 2 is appropriate.
- e. The introduction of a ‘hard stop’ at Gateway 2 is appropriate but only if the information required is consistent across the UK and there is a clear timeframe adhered to by the Building Safety Regulator. The Government must ensure the new system strikes a balance between ensuring buildings are safe, whilst ensuring the system isn’t so bureaucratic or onerous that buildings cannot be built at all. We are confident that a balanced regime is in the interests of Government, industry and residents.
- f. We would support a staged approach to Gateway 2 allowing construction to proceed to particular points. However, it must be consistent across the UK and have a clear timeframe that must be adhered to by the Building Safety Regulator.
- g. The onus should be on the relevant dutyholder to demonstrate they have carried out work in accordance with their duties and any work is compliant with Building Regulations. If they are unable to do this, and the Building Safety Regulator can show reasonable doubt it is non-compliant, they should be able to take appropriate action which may include retrospective remedial work, intrusive inspections or removal of completed work.
- h. The Golden Thread and new dutyholder regime should include a process whereby any changes to the original plans which were approved at a previous Gateway, meet the same requirements at the next stage.
- i. The proposed definition of ‘major changes’ undertaken to the design, or specification once approved, is appropriate. However, we would suggest if the definition changes as a result of this consultation, it should be formally considered before any decision is made.
- j. We agree that manufacturers’ roles and responsibilities in relation to the performance of products should be explicit.
- k. Furthermore, the requirement of the principle contractor should be made clear around the use of products not covered by harmonised standards when the United Kingdom leaves the European Union on 31 October.
- l. CDM regulations require a Health and Safety File to be produced at the end of a construction project which should provide building safety information about the final, as built building. This requirement should be considered, and enhanced if appropriate, and should be one consistent requirement within the appropriate legislation to avoid any duplication or conflict.
- m. Paragraph 132 states existing buildings “*may require less information than would be required for new buildings*”. Government must establish clear and defined expectations around what information can be submitted as part of the safety case. Anything less than absolute clarity will create a legal grey area where creating a safety case for existing buildings becomes bureaucratically impossible due to differing interpretations of what is acceptable.
- n. We agree with the proposal to introduce the role and functions of ‘Accountable Person’ which should be a corporate entity, based and accountable for their actions, in the UK.
- o. We agree with the proposal to introduce the role of ‘Building Safety Manager’ which should be a named individual responsible for discharging the specified duties.

1.4. Building Safety Regulator

- a. We support the principle of the role of the Building Safety Regulator with oversight of safety and performance of buildings in the UK. As proposed within this consultation we would support a further consultation exercise to determine the specific organisational model for

this role as whilst the proposals appear logical, the role will be enormous and fundamental to the new regime.

- b. Specific concerns include the functions to be undertaken, the level of responsibility and competence required. The resources required for the Government to undertake this role are significant and it will be challenging to identify sufficient individuals with the capabilities to operate within the regulatory framework, supporting a commercial environment.

1.5. **Overarching Competence Body**

- a. MHCLG should not implement any proposals relating to the Overarching Competence Body until industry has had the opportunity to review and respond to the Competence Steering Group's interim report which is due to be published in August 2019. It will only be apparent whether the Overarching Competence Body will meet the needs of sectors once the two consultations have been reviewed simultaneously.
- b. The proposed suite of national competence standards must focus on personal and core competences which anyone working on a building project must be expected to hold, rather than occupational competences, which must be defined by industry.
- c. The role of the industry-led committee must be clearly defined, including how it will work with individual sectors and hold them to account.
- d. In the installer sector there are hundreds of occupations, represented by different trade associations and establishing many new certification schemes could be confusing.

1.6. **Voice for Residents**

- a. We agree that building residents should feel safe in the buildings in which they live and feel confident that their home is suitably and sufficiently constructed and maintained.
- b. Residents should have access to clear, relevant and up to date information on all the safety features within their building and be advised of the safety implications of making changes to their home.
- c. A clear process should be introduced which will allow the Building Safety Manager to inspect the property where it is essential to install or maintain safety critical systems, or to inspect works carried out by the resident which could affect the safety of the building.
- d. There should be a clear route for residents to voice their concerns and feel confident they will be appropriately responded to.

2. **Next steps**

- 2.1. The outcome of this consultation should be formally considered before any new legislation is introduced to ensure the desired objective is achieved and there are no unintended consequences from any new regime. Given the short time frame for consultation, providing an adequate response that explores these unintended consequences has proved impossible.