



Ministry of Housing,  
Communities &  
Local Government

# A reformed building safety regulatory system

Government response to the ‘Building a Safer Future’  
consultation



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# Ministerial Foreword

The tragedy of the Grenfell Tower fire in June 2017 devastated the lives of countless people and represented the biggest loss of life from a single incident in the UK since the Hillsborough disaster. It is incumbent on all of us—building owners, the construction industry, local authorities, the fire service and the Government—to ensure that such a tragedy never happens again.

The Government took immediate action in the aftermath of the fire in establishing the Building Safety Programme to ensure that existing buildings and those built in the future are safe for residents. Recognising the unparalleled risk caused by unsafe Aluminium Composite Material (ACM) cladding, we have prioritised its removal from all multi-occupied residential buildings over 18 metres - working with local government, regulatory bodies and industry to identify and remediate these buildings. And in the most recent Budget, announced that we will provide £1 billion in 2020/2021 to support remediation of unsafe non-ACM cladding systems.

As that essential work continues, fires in other multi-occupied residential buildings have indicated that the Grenfell tragedy was symptomatic of wider failings within the building safety system. Problems have developed over many decades, leading to serious incidents and the risk of further loss of life. This is why I have made it my priority to transform the building safety system for new and existing buildings.

Dame Judith Hackitt's Independent Review of Building Regulations and Fire Safety concluded that the current system for ensuring fire safety in high-rise multi-occupied residential buildings is not fit for purpose and would require a complete overhaul. We accepted all 53 of her recommendations and, in some instances, intend to go even further than the steps that she has set out.

Last year, the Government launched the 'Building a Safer Future' consultation, seeking views on our proposals for a radically new building and fire safety system, based on Dame Judith's recommendations. I would like to thank everyone who took the time to respond, we received almost 900 responses from individuals, residents' groups and representatives from the fire safety and built environment industry. This document outlines my response to the consultation and sets out how this Government intends to deliver these reforms.

The Ministry of Housing, Communities and Local Government continues to work closely with other Government departments including the Home Office and the Department for Work and Pensions to refine these ambitious and vital reforms. As well as continuing to support the remediation of existing buildings, reviewing the technical guidance, working with industry on wider culture change including through the procurement system, we will leave no stone unturned to meet our ambition that everyone, no matter where they live, has access to affordable, safe quality housing.

The Grenfell Fire was a national tragedy that shook the confidence in our building safety system to the core. The Government is responding by introducing the biggest change in building safety for a generation. We are already taking steps to deliver these changes but implementing this tougher regulatory regime in full will take time. It is therefore essential that we continue working together to ensure that every single person in this country lives in a home which is decent, safe and secure.

Robert Jenrick  
                  

The Rt Hon Robert Jenrick MP

*Secretary of State for Housing, Communities and Local Government*

# 1. Introduction: reforming the building safety system

Dame Judith Hackitt's Independent Review of Building Regulations and Fire Safety (the Independent Review) outlined a new approach to managing fire and structural safety risks in high-rise multi-occupied residential buildings. She found that the current regulatory system covering high-rise multi-occupied residential buildings was not fit for purpose, leaving room for those who wish to take shortcuts to do so. The Independent Review set out recommendations to establish a new regulatory regime and achieve culture change within the fire safety and built environment sector that will deliver a reformed building safety system. The Government accepted all the findings of the Independent Review and published an Implementation Plan in December 2018 setting out how the recommendations would be taken forward.

In June 2019, the Government published, and extensively promoted, the 'Building a Safer Future' consultation detailing proposals to achieve this long-term reform. In total 871 responses were received from a range of stakeholders including residents' groups and representatives from the fire safety and built environment sector. A summary of the responses to the individual questions posed in the consultation has been published alongside this document.

Across the proposed reforms, respondents were generally supportive of the principles of the new regulatory system. Feedback through this consultation and continued engagement with stakeholders has informed our development of these proposals. Where in this document we have explicitly made clear that we have deviated from major proposals discussed in the consultation, we have identified the rationale for doing so.

This document sets out the Government's proposals for a reformed building safety system covering the performance of all buildings as well as the management of fire and structural safety risks in new and existing buildings in scope. These reforms will apply to England only, with the exception of those relating to construction products and the competence of architects, which will apply across the United Kingdom.

The Government will legislate for these reforms in new primary legislation through the Building Safety Bill and further secondary legislation where necessary. The proposals outlined in this document may therefore be subject to change based on Parliamentary scrutiny and continued engagement with stakeholders.

An updated economic assessment of the known costs and benefits to date is also published alongside this document and this should be read in parallel with the proposals outlined in the proceeding chapters.

Implementation of these reforms will move us from the conditions that allowed a fire like that at Grenfell Tower to occur, to a system where developers and building owners take greater responsibility for the safety of residents in their buildings. A change of this scale requires not only new legislation but also a significant culture change in industry and increased levels of competence for all those acting within the sector.

It will take time to build the necessary capacity and competence to enact these reforms and to transition all buildings in scope to this new system, but the Government is committed to seeing these reforms through and making changes now, to improve the safety of residents. This is why the Government has already:

- Made available £600 million of funding to support building owners to complete remediation works to remove and replace unsafe Aluminium Composite Material (ACM) cladding systems in high-rise private sector residential and social sector buildings in England;
- On 11 March 2020, the Government announced in the budget that we will provide £1 billion in 2020/2021 to support remediation of unsafe non-ACM cladding systems. The fund will be open to social sector landlords and private sector residential building owners who cannot afford to remediate unsafe cladding on buildings over 18 metres;
- Undertaken a full technical review of Approved Document B guidance made under the building regulations, involving sprinklers, wayfinding and evacuation alert systems for new build flats;
- Launched a consultation on the current ban on the use of combustible materials in the external walls of high-rise buildings, including proposals to lower the 18 metre height threshold to at least 11 metres, to extend the ban to cover hotels, hostels and boarding houses, and to introduce a complete ban on unsafe ACM with an unmodified polyethylene core for use on any building;
- Begun a wholescale review of the Housing Health and Safety Rating System, including considering the introduction of new minimum standards;
- Responded to Phase 1 of the Grenfell Tower Inquiry, accepting in principle all of the recommendations for central government;
- Introduced a Fire Safety Bill to clarify that external walls (including cladding, balconies and windows) and the front doors to individual flats in multi-occupied residential blocks fall within the scope of the Regulatory Reform (Fire Safety) Order 2005
- Worked with the Early Adopters Group<sup>1</sup> to establish the Building Safety Charter and supported the Group with the appointment of the Considerate Constructors Scheme as the Building Safety Charter's administrative partner. The Building Safety Charter is a new voluntary approach established to create "an industry committed to putting people's safety first". The Charter, which is intended to support and align with the Building Safety Regulator, focuses on putting safety first through independent verification and benchmarking; driving cultural and behavioural change; sharing and promoting best and better practice; increasing public reassurance and trust mainly through providing an independent public portal for engagement, and contributing to the creation of safer buildings;
- Announced that it will provide £20 million for Fire and Rescue Services to enable them to increase fire inspection and enforcement capability and to build capacity to respond to the

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<sup>1</sup> Construction firms and housing associations that are piloting key elements of the new regulatory regime. Willmott Dixon, Wates, L&Q, Salix Homes, Peabody, United Living, Barratt and Kier are working with government to provide insight on and trial new ways of working, and assess benefits in the buildings they are constructing or managing

Grenfell Tower Inquiry's findings, by investing in training, equipment and a stronger strategic centre for the fire service; and

- Put in place wider measures set out in more detail in chapter ten.

Building on these changes and through the proposals set out in this document, it is the intention of this Government to fundamentally reform the building safety system so that residents are, and feel, safe in their homes.

## 2. Principles for a reformed building safety system

The Independent Review recommended that the Government should:

- Create a more effective regulatory and accountability framework to provide greater oversight of the building industry;
- Introduce clearer standards and guidance;
- Put residents at the heart of a new system of building safety for buildings in scope, empowering them with more information, engaging them on how risks are managed in their building and ensuring effective routes for raising and escalating safety concerns; and
- Help to create a culture change and a more responsible building industry, from design, through to construction, management and refurbishment.

The Government intends to deliver on these objectives by establishing a new, national Building Safety Regulator at the heart of a reformed building safety system. The new regulator will be responsible for implementing and enforcing a more stringent regulatory regime for buildings in scope, providing stronger oversight of safety and performance of all buildings and increasing the competence of those working on building safety.

The Independent Review and the proposals in this document focus on fire and structural safety for buildings in scope, but the Building Safety Regulator will also work with industry and other regulators to strengthen the safety and performance of other buildings.

The scope of the more stringent regulatory regime will apply to all multi-occupied residential buildings of 18 metres or more in height, or more than six storeys (whichever is reached first) from the outset but will, in due course, extend to include other premises, based on emerging risk evidence. The more stringent regime will apply throughout the lifecycle of new builds. It will also apply at the occupation stage to existing buildings in scope following a suitable transition period.

For buildings within scope of the more stringent regime, the Building Safety Regulator - working with existing local regulators - will oversee a new duty-holder regime operating over a building's life span. This duty-holder regime will place greater responsibility on those designing and constructing buildings to explain how they are managing safety risks and demonstrating to the regulator that the building is safe to be occupied.

The Government will remove the ability of the duty-holder to choose which building control body oversees the construction or refurbishment of buildings in scope. This provides a consistent approach, ensuring that enforcement powers will be utilised where appropriate, allowing for stronger regulatory oversight, as recommended in the Independent Review.

The skills, expertise and capacity of local authority building control will provide the main support for the new regulator and be complemented by Approved Inspectors where required. Approved Inspectors may also develop separate consultancy services, capacity and expertise along with other professional specialists to support duty-holders with their new responsibilities. Safeguards will ensure that there are no conflicts of interest with regulatory oversight.

The duty-holder regime will continue into occupation for buildings within scope, by imposing specific obligations on an Accountable Person. The Accountable Person will be responsible for understanding fire and structural risks in their buildings and taking appropriate steps and actions to mitigate and manage those risks on an ongoing basis so the building can be safely occupied. A Building Safety Manager, appointed by the Accountable Person and approved under a system established by the Building Safety Regulator, will deliver the day to day functions on behalf of the Accountable Person.

Under the more stringent regulatory regime, residents will have a stronger voice to ensure that their views and concerns are not ignored. They will be entitled to receive a core set of information about the protections in place to keep their building safe and have new rights to request access to detailed safety information where appropriate. The Building Safety Manager will be required to proactively engage and communicate with residents through a mandated Resident Engagement Strategy. This will make sure that residents are kept informed, are able to participate in the decision-making regarding the safety of their building and understand their safety responsibilities. The Building Safety Manager will also be required to have a clear complaints procedure in place so that residents can raise issues about the safety of their home. Where a concern cannot be resolved satisfactorily through this complaints procedure, or where there may be a significant risk to life, the resident will be able to escalate their complaint directly to the new Building Safety Regulator for action.

Alongside the new Building Safety Regulator, the Government will strengthen the oversight and enforcement of the existing construction products regulatory regime by establishing a new national Construction Products regulatory role.

To ensure the new regime works as intended, these reforms are designed to incentivise behaviours from industry, regulators and residents that improve compliance and better enable the use of enforcement powers and sanctions, including prosecution. The entire system will be subject to independent periodic reviews to assess its effectiveness.

The proposals outlined in this document will benefit residents, regulators, building owners and the construction industry. Most importantly they will ensure that residents of buildings in scope are safe and continue to feel safe in their homes. For those benefits that can be monetised, it is currently estimated that the proposals will deliver a total of between **£190 million - £380 million per annum** (with a central estimate of £280 million) to be shared between the stakeholders outlined above. There are however additional significant benefits that cannot currently be monetised. The total cost of the proposed measures, gross of the benefits, is currently estimated to be between **£266 million - £530 million per annum<sup>2</sup>** (with a central estimate of £391 million)<sup>3</sup>.

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<sup>2</sup> An average in present value terms when appraised over 10 years, as in accordance with HMT Green Book guidance.

<sup>3</sup> All figures used in this document are from the accompanying 'Economic assessment' document.

### 3. A more effective regulatory framework: the Building Safety Regulator

*Refer to chapter 3 in the accompanying ‘Economic assessment’ document for an updated economic assessment for the known costs and benefits to date for proposals discussed in this chapter. Refer to chapters 2 and 7 in the accompanying ‘Summary of responses’ document for a summary of responses to the individual consultation questions discussed in this chapter.*

The Government will establish a new, national Building Safety Regulator, that will be responsible for:

- implementing a more stringent regulatory regime for buildings in scope;
- overseeing the safety and performance of all buildings; and
- promoting the competence and organisational capability of professionals, tradespeople and building control professionals working on all buildings.

#### Delivery of the new regulator

In October 2019, the Government asked Dame Judith Hackitt to advise on how the Building Safety Regulator should be delivered. Dame Judith recommended that the Building Safety Regulator should be established in the Health and Safety Executive because:

- The Health and Safety Executive is an established regulator with many years’ experience regulating safety issues, including in the construction industry;
- This would be the fastest and most efficient route to getting the Building Safety Regulator up and running so it would be able to provide reassurance to residents that their homes are safe;
- The Health and Safety Executive’s expertise and knowledge would drive a regime where duty-holders would be properly held to account by a robust regulator; and
- While the Building Safety Regulator needs to signal a clean break from the existing regime, it should draw on the knowledge and expertise of existing regulators including local authorities (notably building control teams), Fire & Rescue Services and elsewhere.

Dame Judith also advised that it should urgently be set up in shadow form ahead of legislation coming into force. The Government agreed with Dame Judith’s recommendations, and on 20 January 2020 announced that the Building Safety Regulator will be established in the Health and Safety Executive. This will enable it to play a critical role in driving through the proposed reforms to building safety, including working closely with the Government on the development of the forthcoming Building Safety Bill and preparations for the more stringent regime for buildings in scope. The Building Safety Regulator will report to the Secretary of State for Housing, who will retain overall responsibility for the regulatory system.

Work has already begun to establish the Building Safety Regulator and key early priorities for the shadow Building Safety Regulator are to appoint a Chief Inspector of Buildings and to prepare the necessary infrastructure within the Health and Safety Executive so that the fully-fledged regulator can operate at scale as soon as possible after its powers come into effect. Dame Judith is chairing a new Board to oversee the transition to the new regime.

## A more stringent regulatory regime for buildings in scope

Building safety should be subject to regulatory oversight and assurance based on clear and objective risk factors. Whilst, the Building Safety Regulator will oversee the safety and performance of all buildings, it will also actively oversee and enforce a more stringent regulatory regime for buildings in scope during their design, construction, occupation and refurbishment.

In her Independent Review, Dame Judith recommended that initially this more stringent regime should be targeted at buildings of 10 storeys or more (approximately 30 metres). However, she recommended that this should expand quickly in the future based on further evidence, using height alongside factors such as numbers of residents and vulnerability of occupants. The majority of respondents to the consultation believed that a wider set of buildings should be in scope from the outset, and whilst height was considered as a factor, there was no overall consensus over other factors that should determine in scope buildings.

The Government agrees that a wider set of buildings should be in scope based on factors broader than height alone. Therefore, the new regime will apply to all multi-occupied residential buildings of 18 metres or more in height, or more than six storeys (whichever is reached first); and be extended further, prior to the Bill being introduced in Parliament, to take into account any findings from the Government's research and evidence gathering on fire safety risk prioritisation.

The Building Safety Regulator will have a duty to keep the scope of the more stringent regulatory regime under review and to provide advice to the Government when the evidence suggests it should be extended. The Government intends to take a power in the Building Safety Bill to allow the scope to be amended in the future, after considering the Building Safety Regulator's advice. Any changes to the scope will be laid in Parliament following engagement with the sector and will allow for a suitable transition period during implementation.

The Building Safety Regulator will be responsible for all major regulatory decisions made at key points during the design, construction, occupation and refurbishment of buildings in scope, drawing on the expertise and advice of other regulators and relevant experts. These regulatory decisions will include whether to allow a building to be constructed and later occupied (at Gateway points during design and construction); and whether the Accountable Person, via the Building Safety Manager, has demonstrated through a safety case that appropriate actions to mitigate and manage fire and structural risks are being taken on an ongoing basis so that the building can be safely occupied.

The Building Safety Regulator will work closely with and take advice from other regulators and relevant experts in making these decisions. It will bring together teams drawn from the Fire & Rescue Services, local authorities (notably building control teams), the Health and Safety Executive (in relation to health and safety at work), as well as wider expertise - such as Approved Inspectors or contracted technical experts. The Building Safety Regulator will base its decisions on evidence submitted by duty-holders and Accountable Persons, and on any inspections of the building site or the completed building.

The Building Safety Regulator will also carry out functions that can only be sensibly delivered at national level, notably:

- Establishing a national register of buildings in scope and other national systems that will be required;
- Ensuring that resident complaints about safety issues for buildings in scope that have been escalated to the regulator are investigated and dealt with in a timely and effective manner. This includes by working with other regulators and redress schemes;
- Producing advice to help duty-holders in managing the safety risks of buildings in scope to discharge that responsibility;
- Advising on current and emerging safety risks in buildings in scope, drawing on aggregated building safety data, research, resident complaints and mandatory occurrence reports; and
- Hosting centres of excellence to strengthen enforcement, including specialist expertise to assist with prosecuting complex cases, and to develop best practice on resident engagement.

## Oversight of the safety and performance of all buildings

The Government is committed to delivering safer, better-performing buildings everywhere, so our reforms go beyond establishing a more stringent regulatory regime for buildings in scope. That is why the Building Safety Regulator will undertake several regulatory functions that will apply to all buildings:

- Working with technical experts and the construction industry to ensure that those who design and construct buildings are able to access cutting-edge advice on best practice in delivering safe, high-performing buildings. This will include advising the Government on changes to the building regulations and Approved Documents.
- Overseeing and publishing reports on the performance of Building Control Bodies – both local authority building control teams and Approved Inspectors – and the professionals who work in those teams, with sanctions available where building control services are failing to meet standards set by the Building Safety Regulator; and
- Advising on current and emerging risks to building safety and performance, drawing on data that Building Control Bodies may be required to share with the Building Safety Regulator from time to time.

In line with the recommendations from the Independent Review, a new oversight structure will replace the current Building Regulations Advisory Committee. The Building Safety Regulator will seek specialists with a wide range of knowledge, skills and experience from across the built environment. It is intended that this new structure will both validate and assure technical guidance such as Approved Documents and provide independent expert advice on building safety and performance.

## Promoting competence across industry and within building control

For the new regime to operate effectively, it will require the competence of those working in the building sector to be of a sufficient standard to give confidence to duty-holders, regulators and residents that they are competent to carry out their job in a manner that will ensure quality, safety and compliance with building regulations.

This requires a more coherent and consistent approach to assessing and assuring the competence of people across all disciplines working on buildings, which will be overseen by the Building Safety Regulator; further details of which are set out later in this document.

# 4. A more rigorous approach to accountability: the system of duty-holders

*Refer to chapter 4 in the accompanying ‘Economic assessment’ document for an updated economic assessment for the known costs and benefits to date for proposals discussed in this chapter. Refer to chapters 3, 4 and 5 in the accompanying ‘Summary of responses’ document for a summary of responses to the individual consultation questions discussed in this chapter.*

The Government’s proposals for a more stringent regulatory regime will deliver a rigorous approach to accountability that places much greater responsibility on those responsible for the design, construction, occupation and refurbishment of buildings within scope to demonstrate how they are managing fire and structural safety risks to their building. Responses from the consultation indicate that the overwhelming majority of respondents agree with these proposals.

This more stringent regime will be delivered through the creation of a system of duty-holders, who have clear responsibilities at each stage of the building’s lifecycle. Some of these responsibilities will run throughout the building’s lifecycle, while others will apply at particular stages. Together, they form a robust and challenging set of responsibilities designed to keep residents safe by providing accountability for compliance with the new regime on specific individuals or legal entities. Whilst not mandatory, the Government also encourages duty-holders to be signatories of and commit to the Building Safety Charter.

## During design and construction

When buildings are designed, constructed or refurbished we will give duty-holders, including existing duty-holders identified in the Construction (Design and Management) Regulations 2015 (the Client, the Principal Designer, the Principal Contractor, designers and contractors) formal responsibilities for compliance with building regulations. This is supported by an overwhelming majority of respondents, some who commented that using these regulations as a model for developing duty-holder responsibilities would aid with implementation due to their familiarity.

These duty-holders will typically be an organisation but could be a single named individual. Although the majority of respondents considered that where the duty-holder is a legal entity, a named individual should be identifiable as responsible for building safety, this may not be possible in practice. Respondents that did not agree that a duty-holder should be a single named individual gave reasons including complex forms of ownership, such as voluntary boards, and concerns around the level of liability, influence and skills required by an individual.

### Duty-holders

The duty-holders during the design, construction and refurbishment phases of a building will be:

- the Client: any person or organisation for whom a construction project is carried out as part of their business.
- the Principal Designer: appointed by the Client under Construction (Design and Management) Regulations 2015 to plan, manage, monitor and coordinate the pre-construction phase, when most design work is carried out.
- the Principal Contractor: appointed by the Client under Construction (Design and Management) Regulations 2015 to plan, manage, monitor and co-ordinate the construction phase.
- Designer(s): undertakes a trade, business or other activity in connection with which they prepare or modify a design or instruct any person under their control to prepare or modify a design.
- Contractor(s): manages or controls construction work (e.g. building, altering, maintaining or demolishing a building or structure). Anyone who manages this work or directly employs or engages construction workers is a contractor.

These duty-holders will have clear duties to support the development of safer buildings, both in the form of general responsibilities and specific requirements to allow them - in particular the Client, Principal Designer and Principal Contractor - to demonstrate compliance with the more stringent regulatory regime. All duty-holders during the design and construction phase will be required to:

- cooperate and share information with the Building Safety Regulator;
- ensure compliance with building regulations;
- comply with the specific regulatory requirements imposed upon them; and
- ensure they and the people they employ are competent to do the work they are undertaking.

Duty-holders during the design and construction phase of buildings in scope will also be responsible for meeting the requirements at two of three new key sign off points - Gateway two (before construction begins) and Gateway three (before the building's occupation) - where the Client will need to demonstrate to the Building Safety Regulator that the requirements of the building regulations are being met and risks are being appropriately managed in order to progress to the next stage of development.

All three Gateway points will apply to all multi-occupied residential buildings of 18 metres or more in height, or more than six storeys (whichever is reached first). This goes further than the proposal set out in the consultation where Gateway one would apply to multi-occupied residential buildings of 30 metres or more height and Gateways two and three would apply to multi-occupied residential buildings of 18 metres or more in height. As identified in the responses to the consultation, aligning all three Gateways will ensure a consistent approach and mitigate gaming of the system.

## **Gateway one**

The first gateway point (Gateway one) will be before planning permission is granted when fire safety issues which impact on planning should be considered, including emergency fire vehicle access to a building and whether there are adequate water supplies in the event of a fire. To aid

the local planning authority in their decision as to whether to grant planning permission, the developer will be required to submit a Fire Statement setting out fire safety considerations specific to the development with their planning application.

Working with stakeholders such as the National Fire Chiefs Council, Joint Regulators Group, Early Adopters Group and local planning authorities the exact requirements of the Fire Statement will be established. National guidance will be published to help developers prepare effective Fire Statements to support local planning authorities and to ensure Fire Statements are comprehensive while remaining proportionate. It is anticipated when assessing an application at Gateway one, the local planning authority will consult their local Fire & Rescue Service (as necessary) on a statutory basis. The current statutory deadline for responses to consultations on planning applications will apply in those cases where the local Fire & Rescue Service is consulted to avoid delays to the planning process.

The Independent Review raised concerns about new developments proposed in the near vicinity of a building in scope of the regime and the impact these could have on the fire safety provisions of such a building, for example in relation to fire emergency vehicle access. As part of the national guidance referenced above, guidance will also be provided for local planning authorities on how to consider the impact of a new development on the fire safety provisions of a building in scope of the more stringent regime. The Fire Statement will provide information on the near vicinity area of the development highlighting key considerations for future nearby developments in relation to this.

Where a development benefits from a permitted development right, it will proceed straight to Gateway two for assessment by the Building Safety Regulator before any construction work can commence. In addition, where there is a permitted development right which requires prior approval from the local planning authority, the developer, at the time of submitting the prior approval application will also be required to notify the Building Safety Regulator of the proposal to change a building and bring it in scope of the new regime.

Building on the best practice established in the planning regime, the Government is exploring how early engagement would benefit developers that are required to go through the overall Gateway process.

## **Gateway two**

The second Gateway point (Gateway two) will be before construction begins at the current ‘deposit of full plans’ stage under the Building Regulations 2010. Under the new regime, the Building Safety Regulator will take on the role of the Building Control Body and be legally responsible for regulating in-scope buildings in respect of building regulations. The Building Safety Regulator will bring together teams to deliver its regulatory functions, including local regulators. The Client will be required to submit key information to the Building Safety Regulator demonstrating how they are complying with building regulations through the submission of full plans, the construction control plan, fire and emergency file, and other supporting documentation that will help the assessment team determine whether the application meets the building regulations requirements and that the duty-holder has sufficiently demonstrated that they are managing building safety risks.

At Gateway two, the Client will also be required to ensure they are satisfied that the Principal Designer and Principal Contractor can demonstrate the necessary competence to discharge their responsibilities effectively.

The Building Safety Regulator, working with local regulators, will within a reasonable timeframe, assess the full plans and associated information against all the requirements of the building regulations. They will be able to seek further information from the Client or reject an application outright if they are not satisfied it meets the necessary requirements to proceed to the next development stage.

Gateway two will, therefore, be a ‘hard stop’ before the Building Safety Regulator gives permission for construction to begin. If permission is granted to proceed, the Building Safety Regulator will, in discussion with the Client, set an appropriate site inspection programme for specific stages of the construction work.

In a scenario where information required at Gateway two is not available but waiting for it could delay construction (such as in complex builds), the Building Safety Regulator - as is the case in Scotland - will be able to allow a staged approach to construction. This will still represent a ‘hard stop’ approach but instead be managed in stages (for example: foundations, superstructure, etc.) where the Principal Contractor will not be permitted to begin work on other parts of the building until an inspection of the previous stage by the Building Safety Regulator has been successfully passed and the plan(s) for the subsequent phases of work have also been approved.

The change control strategy submitted as part of the construction control plan at Gateway two will need to be updated and maintained throughout the construction phase, to record all changes from the original plans as submitted. Critical safety management changes will need to be notified to the Building Safety Regulator before further work can begin on site.

## **Gateway three**

The third and final gateway point (Gateway three) is before occupation of the building at the final completion certificate/final notice stage under the building regulations. Again, the Building Safety Regulator will provide the building control function working with local regulators. At this stage, the Client will be required to submit to the Building Safety Regulator information on the final, as-built building. This will include:

- updated as-built plans indicating any agreed variations since Gateway two;
- a complete construction control plan;
- an updated fire and emergency file; and
- a complete key dataset.

At Gateway three, the Client, Principal Designer and Principal Contractor will also be required to produce and co-sign a final declaration confirming that to the best of their knowledge the building complies with building regulations. To provide adequate regulatory oversight on receipt of this declaration the Building Safety Regulator, taking advice where necessary, will decide whether to accept the declaration, and associated information providing evidence that the building complies with all the requirements of Gateway three, with the option to request further information from duty-holders if not satisfied. Key information related to fire and structural safety submitted during the three Gateways will form part of the golden thread of data, which will be kept up to date and made accessible to relevant people throughout the lifecycle of the building.

Recognising that many multi-occupied residential buildings are currently occupied in stages, the Building Safety Regulator will have the ability to permit partial occupation before the overall building is completed. Where partial occupation is proposed, this should form part of the design

strategy from the outset and planning for this should be included in the products submitted before Gateway three. A suitable fire management strategy will need to be in place prior to commencing partial occupation.

To consider whether partial occupation should be allowed the Client would need to demonstrate the measures they are putting in place to ensure the safety of residents. Any application would need to be made to the Building Safety Regulator through the gateways process before any occupation. The Building Safety Regulator will consider the provisions and decide whether the measures are adequate to ensure safety. This will ensure that no building is occupied before it is safe, and safety is maintained during occupation, while avoiding unnecessary delays for developers who are acting responsibly.

## During occupation

A new building within scope of the more stringent regime cannot be legally occupied until a Building Registration Certificate has been issued by the Building Safety Regulator. For partial occupation, an interim Building Registration Certificate may be issued by the Building Safety Regulator. The Accountable Person, a new duty-holder for occupation, will be responsible for applying for and meeting the conditions of the Building Registration Certificate following the passage of Gateway three (or for partial occupation prior to completion of the overall building). An overwhelming majority of respondents agreed that this would be an effective way to provide assurance and transparency that a building is fit to be occupied. The requirements for an existing building in scope are covered in the next section.

## Accountable Person

The Accountable Person will be legally responsible for ensuring that they understand fire and structural risks in their buildings and to take appropriate steps and actions to mitigate and manage these fire and structural risks on an ongoing basis so the building can be safely occupied. The Accountable Person will be required to appoint a competent Building Safety Manager, approved under a system agreed by the Building Safety Regulator, to support them in carrying out the day to day functions of ensuring that the building is safely managed. However, ultimate accountability will reside with the Accountable Person for assessing and managing fire and structural safety risks.

For most buildings in scope the identity of the Accountable Person will be clear. As proposed in the consultation, the Accountable Person will be the individual, partnership or corporate body with the legal right to receive funds through service charges or rent from leaseholders and tenants in the building. The Accountable Person will also be identifiable by their legal responsibility for the upkeep and maintenance of the structure and outside of the building, and the plant room and common parts within. In the case of complex building ownership models, there could be more than one Accountable Person. The Accountable Person will therefore in most cases be the freeholder or head lessee, including overall landlord or a management company, such as those with responsibility under the lease for collecting and discharging service charges or a right to manage company. However, building ownership can be complicated and takes many forms, for example some buildings are owned commonhold, where the Accountable Person is likely to be the Commonhold Association. The Government will produce comprehensive guidance to help identify and support the Accountable Person where there is a complex ownership structure.

## **Building Registration Certificate**

To register a building, the Accountable Person will be required to provide specified information such as the core details identifying the building, the details of the Accountable Person and the details of the Building Safety Manager to the Building Safety Regulator.

On granting a Building Registration Certificate, the Building Safety Regulator may attach specific conditions to it, with the Accountable Person obligated to comply or face penalties including possible criminal sanctions. There will be three types of conditions: special conditions (to deal with specific risks) which would be imposed by the Building Safety Regulator; voluntary conditions, which have been proposed by the Accountable Person; and mandatory conditions, which will apply to all buildings within scope of the more stringent regulatory regime.

Without a valid Building Registration Certificate, a building in scope cannot legally be occupied. In the case of non-compliance or poor performance the Building Safety Regulator will be able to review the Building Registration Certificate with a view to adding, amending or varying the conditions. The Building Safety Regulator will have the power to require the Accountable Person to appoint a replacement Building Safety Manager where there is continued non-compliance with conditions in the Building Registration Certificate. In exceptional circumstances, the Building Safety Regulator will have the ability to remove the Building Safety Manager and apply to the Court for the appointment of a nominated Building Safety Manager. Respondents agreed that this was a necessary measure available to the Building Safety Regulator as a last resort.

It will be mandatory for the Building Registration Certificate to be displayed in a prominent area of the common parts of the building so that it is readily accessible to residents. To ensure residents can easily identify and hold to account those responsible for the safety of their building, the Building Registration Certificate will name the Accountable Person and the Building Safety Manager and specify any conditions attached to the Building Registration Certificate.

## **Building Safety Manager**

The Building Safety Manager appointed by the Accountable Person can either be a legal entity or a natural person. In both scenarios, the Accountable Person will be obligated to make adequate resources available (including time and funding) to allow the Building Safety Manager to comply with a number of functions including:

- maintaining the building's safety case and ensuring the conditions in the Building Registration Certificate are complied with to the satisfaction of the Accountable Person and the Building Safety Regulator;
- ensuring those employed in the maintenance and management of the building's fire and structural safety have the necessary competence requirements to carry out the role they are undertaking;
- engaging with residents in the safe management of their building through producing and implementing a Resident Engagement Strategy; and
- reporting into a mandatory occurrence reporting regime.

Unless otherwise stated, in the following sections activities described as the responsibility of the Building Safety Manager are undertaken on behalf of the Accountable Person on whom the legal

duty sits. The Accountable Person will therefore need to ensure that the Building Safety Manager has the necessary skills, knowledge and experience to carry out these functions.

The Government intends that the administrative costs incurred during the occupation of buildings in scope are proportional, transparent and fall to those who benefit from the reforms. We are continuing to develop options for how these costs would be met and will provide further detail in due course.

## Safety Case

Submitting a safety case report to the Building Safety Regulator will be a mandatory requirement. Mirroring the approach of most other major hazard safety case regimes, the Building Safety Manager will be required to keep the safety case up to date as a way of providing themselves, and their residents, with the assurance that they understand the fire and structural risks in their buildings and are taking appropriate steps and actions to mitigate and manage those risks on an ongoing basis so the building can be safely occupied.

The safety case should refer to the totality of the building safety information and include all supporting evidence identifying how fire and structural risks are being managed – this information should be stored in the golden thread. The safety case report should contain an introduction which indicates how the fire and structural risks in a building are being managed by the Building Safety Manager. This should be followed by a written explanation and justification of the approach being taken to manage risks, referencing the supporting evidence in the safety case.

In submitting a safety case report for review, the Accountable Person will make a case to the Building Safety Regulator that the fire and structural safety risks in the building have been assessed, and adequate safety measures have been identified and put in place to manage the risks appropriately.

Key to the process of putting the safety case together will be the established risk assessment principles of:

- identifying the hazards;
- deciding who might be harmed and how;
- evaluating the risks associated with these hazards;
- deciding on the necessary control and mitigation measures;
- recording those findings and implementing them; and
- evaluating and monitoring on an ongoing basis.

This is consistent with the approach that should be undertaken for fire risk assessments under the Fire Safety Order. Those in control of the building who have a current and comprehensive fire risk assessment and implement compliant fire safety management will be familiar with operating processes which show how they have identified the hazards, evaluated the risks, decided on and implemented control and mitigation measures and have an ongoing process in place for monitoring. The use of similar processes will be central to a safety case approach and a current comprehensive fire risk assessment leading to the taking of necessary general fire precautions, in conjunction with fully compliant fire safety arrangements should be a key part of the safety case and safety case report.

At the time of submitting the safety case report to the Building Safety Regulator, the Building Safety Manager may be in the process of implementing measures identified as a result of undertaking a fire risk assessment, but they will still be able to evidence in the safety case and safety case report that through interim measures, fire and structural risks continue to be managed on an ongoing basis so the building can be safely occupied.

In assessing the safety case report the Building Safety Regulator will have the ability to require changes to the mitigations in place where it is appropriate to take further measures. The Building Registration Certificate and safety case will be reviewed periodically by the Building Safety Regulator. A formal review could also be triggered outside of this periodic cycle where changes take place such as a refurbishment or change in Accountable Person, as suggested by respondents. The Government also propose that the Building Safety Regulator has a power to call for a review where it considers it appropriate, for example as a result of a mandatory occurrence report or other intelligence such as potential system wide risks and concerns raised by residents.

The Government has been, and will continue to, work with the Health and Safety Executive, the Joint Regulators Group, relevant working groups under the Competence Steering Group, the Chair of the Process Safety Management Competence Board, the Ministry of Defence and operators within other major hazard industries to develop policy products for testing in trials with the Early Adopters Group – Peabody, Salix, L&Q, Camden Council, and the Building Safety Charter – including a template on how to compile and complete a safety case report.

## Across the lifecycle of the building

On top of those specific requirements covered in previous sections, some responsibilities will apply to duty-holders throughout the lifecycle of a building within scope of the more stringent regime to support the specific reforms being introduced during the design, construction and occupation phases.

### Golden Thread

Duty-holders will be responsible for creating and maintaining the golden thread of building information related to fire and structural safety. The golden thread will be held digitally to ensure that the original design intent and any subsequent changes to the building are captured, preserved and used to support safety improvements. At the handover stage between Gateway three and occupation, key information (the golden thread) will have to be handed over from the Client to the Accountable Person - both will need to confirm that this has happened. The Accountable Person will continue to be responsible for the golden thread and ensuring the information remains accurate and up to date.

The Government will publish guidance and standards setting out what digital requirements the golden thread of information would have to meet, including specifications regarding the sharing and access of information. For example, that information must be easily accessible to relevant people throughout design and construction. This will contribute to information being more easily kept up to date, maintained, accessed and used to ensure delivery of safer buildings.

## **Mandatory Occurrence Reporting**

The Building Safety Regulator will establish a system of mandatory occurrence reporting for duty-holders. Mandatory occurrence will be defined as any structural safety or fire safety related event which is perceived to represent a significant risk to life in multi-occupied residential buildings within the scope of the new regime.

During the design and construction phases, the Client will be obligated to set up a functional internal framework, which the Principal Designer and Principal Contractor must submit occurrences to. In the occupation phase, it will be a statutory function of the Building Safety Manager to set up a similar framework during occupation and to report occurrences into it themselves. Guidance will be issued detailing the occurrences and setting out the exact requirements of reporting.

Duty-holders will be encouraged to report structural and fire safety occurrences, which are not classified as mandatory occurrences under this new reporting regime, to a voluntary reporting scheme. The purpose of which will be to complement mandatory reporting by capturing and sharing information about structural and fire safety occurrences for both the Building Safety Regulator and industry. The Building Safety Regulator will be responsible for establishing the voluntary reporting system. In line with the Independent Review's recommendation, the intention is to deliver voluntary reporting through the expansion of the existing Confidential Reporting on Structural Safety scheme.

The Building Safety Regulator will also be made a prescribed person under the Public Interest Disclosure Act 1998. This will afford workers protection from detrimental treatment or victimisation from their employer when making disclosures in the public interest; more commonly known as whistleblowing protection.

## **Duty-holder Competence**

As covered in preceding chapters, duty-holders will also need to ensure that those they employ have the necessary competence to discharge their functions effectively and assure that they themselves are suitably competent for the work they've been engaged to do. Alongside reforms to increase the competence of industry and building control professionals, the overarching system for overseeing competence requirements will also apply to duty-holders, in particular the Principal Designer, Principal Contractor and Building Safety Manager. This is to ensure that the design intent of the building is maintained, and that organisations and workers employed and used in design, construction, refurbishment, maintenance and operation are suitably competent.

## **Existing buildings within scope**

Existing buildings in scope will enter the more stringent regulatory regime at the occupation phase. The Accountable Person will be required to obtain a Building Registration Certificate, in a similar process as for new builds at Gateway three. However, there will be a staged transition period and the Building Safety Regulator will take into account the information available to the Accountable Person at the time of the application.

The transition period will be staged in a planned and phased way, the details of which will be set out later this year. Before the end of each transitional stage, it will be the responsibility of the Accountable Person to register the building with the Building Safety Regulator and to produce a building safety case report for assessment. Failure to do so will be considered an offence by the Accountable Person. The Ministry of Housing, Communities and Local Government, the Health and Safety Executive and local regulators will work with stakeholders to ensure the staging for the transitional period prioritises safety, the concerns of residents, and a smooth transition for the sector.

Accountable Persons who are signatories to the Building Safety Charter will be encouraged to share best practice with the Building Safety Charter Learning and Excellence Hub to assist with driving cultural change across the industry over transition issues.

## During a refurbishment

Respondents agreed with Government that a greater scrutiny of building refurbishments will help mitigate safety risks. Before a building in scope undergoes any defined refurbishment, the Building Safety Manager will need to engage with residents on their proposals and update the safety case on any changes that might affect the fire and/or structural safety of the building.

If the refurbishment is subject to the building regulations and being commissioned or undertaken by the Accountable Person or the Building Safety Manager, then the Building Safety Manager or the Accountable Person will be required to submit an application for the building work to the Building Safety Regulator. Work cannot start before Building Safety Regulator approval.

Depending on the scale of the refurbishment, the Building Safety Regulator will have the power to request any other relevant information, including information that applies to the Gateway processes. If the refurbishment is so significant that occupying the building when undertaking the work carries a significant risk to the residents, then the Building Safety Regulator will not authorise the work until the Building Safety Manager has demonstrated that residents' safety can be assured throughout, and that the Building Safety Manager has appropriately engaged with residents on any aspects that affect them, and provided that information to the design and contractor teams to allow them to plan their work, or the Building Safety Manager has decanted the residents to safely carry out the work.

If the refurbishment does not trigger the building regulations but could have an impact on fire and/or structural safety, then the Building Safety Manager will be required to notify the Building Safety Regulator, but work can commence without waiting for a response. The Building Safety Regulator can, if concerned, inspect the change.

Residents proposing a refurbishment to their own property will be required to notify the Building Safety Manager. If required, the Building Safety Manager will need to update the safety case and confirm to the resident whether or not the refurbishment can be undertaken (having regard to the safety case). If the changes might affect the fire or structural safety of the building, or are subject to building regulations, the resident, or contractor undertaking the refurbishment on behalf of the resident, will be required to notify the Building Safety Regulator prior to, and on completion of the work.

As stated under Building Control Competence, the Ministry of Housing, Communities and Local Government will continue to explore how Competent Person Schemes will work for buildings in scope under the supervision of the Building Safety Regulator, as recommended in the

Independent Review. However, we expect that for buildings in scope, the Building Safety Regulator will be notified of any work that is being carried out under a competent person scheme before the work starts and once the work is completed.

Any application for or notification of building work must be accompanied by an updated safety case (or part, or parts thereof) or a declaration from the Building Safety Manager that the proposed work has no foreseeable impact on fire and/or structural risk. Contractors should not carry out work on a building in scope until the Building Safety Regulator has been notified of the work and the safety case has been updated or the relevant declaration received.

Throughout all refurbishment work, the safety case must be updated, to demonstrate how risks are being predicted, planned for and managed as appropriate and necessary on an ongoing basis.

## **Remediation**

A review of the safety case may lead to the identification of previously unknown fire and structural safety risks that require remediation to protect the safety of residents. The Accountable Person will be expected to rectify the building to ensure the safety of occupants is prioritised. The Accountable Person will be able to discuss proposed improvements with the Building Safety Regulator in consideration of the risk to safety.

Building owners remain legally responsible for ensuring the safety of their buildings and residents. Consequently, the Government expects building owners to act responsibly and pay for the remediation of their buildings now and in the future regime. We continue to support building owners and industry in ensuring that unsafe materials are remediated as quickly as possible, including by making available £1.6 billion of grant funding for the removal of unsafe cladding systems from existing high rise buildings. The £1.6 billion of funding for unsafe cladding on high rise buildings recognises that these pose the highest risk, a view supported by experts such as Dame Judith Hackitt. However, this funding does not absolve industry from taking responsibility for any failures that led to unsafe cladding materials being put on these buildings.

In the more stringent regulatory regime, it will be for the Accountable Person to ensure that defects identified in buildings through safety cases are properly addressed. The Government stands ready to take further steps to ensure necessary actions arising from the safety case happens at pace, including by giving the Building Safety Regulator greater powers to ensure that any required action is taken and enforced.

# 5. A stronger voice for residents: the Resident Engagement Strategy

*Refer to chapter 5 in the accompanying ‘Economic assessment’ document for an updated economic assessment for the known costs and benefits to date for proposals discussed in this chapter. Refer to chapter 6 in the accompanying ‘Summary of responses’ document for a summary of responses to the individual consultation questions discussed in this chapter.*

The overwhelming majority of consultation respondents agreed that residents should be empowered partners in the more stringent regulatory regime and supported proposals to ensure that residents are better able to challenge where they feel building safety is not being properly managed.

Residents of buildings in scope will:

- have new rights to receive information about the safety of their building;
- be able to request access to appropriate detailed safety information;
- be involved in decisions about the safety of their building; and
- have their complaints about safety dealt with quickly and effectively.

They will also have clearer responsibilities in relation to playing their part in mitigating risks in their building.

## Engagement

The Building Safety Manager will be required to produce and implement a Resident Engagement Strategy, setting out how they will inform and engage residents and involve them in decision-making. This will be reviewed alongside the safety case by the Building Safety Regulator to ensure that it is robust, and the Building Safety Manager will be held to account for poor performance.

In the Resident Engagement Strategy, the Building Safety Manager will have to demonstrate:

- how core information about building safety will be shared proactively with residents;
- how appropriate detailed information about building safety will be made available to residents on request;
- their strategic approach to communicating with residents, including the channels and forums through which different information will be shared;
- how residents will be involved in decisions about their building’s safety, particularly during any refurbishment;
- how complaints about safety will be handled effectively and efficiently;
- how residents will be informed about their own safety responsibilities, and how these will be managed;
- what steps will be taken to ensure the engagement takes account of the diverse needs of their residents; and
- how implementation of the strategy will be measured.

## Raising and Escalating Complaints

Residents in buildings in scope of the more stringent regime will have access to a clear and transparent process to complain to their Building Safety Manager about fire or structural safety issues.

The complaints process included in the Resident Engagement Strategy will be required to set out how decisions will be communicated, together with expected timescales for initial response, investigations and a final resolution of the complaint. Details of all complaints raised by residents and the outcome will need to be retained by the Building Safety Manager (even after their resolution) and form part of the submission to the Building Safety Regulator at the periodic review, or when an ad hoc review is triggered.

Where a resident feels that their complaint has not been properly addressed, they will be able to escalate the issue to the Building Safety Regulator, which will help - in conjunction with local regulators as appropriate – in ensuring the issue is resolved. Residents will also be able to raise complaints directly with the Building Safety Regulator where there is believed to be a significant risk to life or serious injury from failure to take action.

The overwhelming majority of consultation respondents supported these proposals for both an internal complaints process via the Building Safety Manager, and the escalation route if issues remain unresolved. A key consideration of these respondents was that this new escalation system should be aligned to existing processes and legislation. Therefore, the Government intends to put in place a set of agreements between existing and planned regulators, Ombudsman and redress schemes - such as the New Homes Ombudsman, the Social Housing Regulator or local authorities - to ensure that complaints initially raised with any relevant body can be smoothly redirected for prompt action by the appropriate enforcement body.

## Residents' Responsibilities

We will introduce a new statutory duty requiring residents to cooperate with the Building Safety Manager in the fulfilment of their functions.

This general duty to cooperate will be supported by a set of specific duties, which will mean that residents have legal responsibilities to avoid actions that could pose a risk to the fire and structural safety of the building.

These types of resident actions could be active or passive, and will include actions such as:

- making structural alterations to their flats, such as removing supporting walls, that undermine the structural integrity or compartmentation of the building, or failing to put right dangerous alterations that they are liable for;
- removing and replacing compliant fire doors or windows;
- damaging or removing fire safety features in the common parts of a building, such as fire extinguishers, sprinklers or alarm systems; or
- hindering or frustrating the Building Safety Manager in the performance of their duty to maintain the fire and structural integrity of the building and keep residents safe.

In the vast majority of cases, the Government is confident that residents will comply with their safety responsibilities. However, for the small minority that do not comply and where targeted engagement by the Building Safety Manager has not resolved the issue on a voluntary basis, the Building Safety Manager will have a route to enforce resident responsibilities that balances individual residents' rights with the need for effective, timely enforcement where there is a risk to the safety of other residents.

This could either be through existing contractual leasehold or tenancy agreements, or by working with local regulatory bodies to use their existing enforcement and access powers, supported by clear guidance on cooperation and existing local protocols. Where neither of these routes are appropriate to resolve the issue, the Building Safety Manager will have the ability to enforce the statutory duty through the courts.

# 6. Improving the safety of construction products: a new regulatory framework

*Refer to chapter 6 in the accompanying ‘Economic assessment’ document for an updated economic assessment for the known costs and benefits to date for proposals discussed in this chapter. Refer to chapter 7 in the accompanying ‘Summary of responses’ document for a summary of responses to the individual consultation questions discussed in this chapter.*

Construction products are used throughout the lifecycle of a building and have a critical impact on its safety.

## Oversight of the construction products regulatory regime

To strengthen the oversight of the existing construction products regulatory regime, the Government will establish a new national Construction Products regulatory role, which will be responsible for:

- Market surveillance and oversight of local enforcement action, including maintaining a national complaints system and supporting local Trading Standards in dealing with complex cases;
- Enforcement action with manufacturers, where issues are judged to be national and/or significant; and
- Providing advice and support to the industry to improve compliance as well as providing technical advice to the Government.

The Government intends to expand the scope of the regulatory regime for construction products to cover more products, ensuring the safety of a wider range of construction products. We are also taking forward the development of standards of third-party certification, with the British Standards Institution, United Kingdom Accreditation Service and industry.

## Construction Products Standards Committee

In addition to the establishment of the national Construction Products regulatory role, the Government is implementing a wider programme of reforms across the construction products sector, including the establishment of a new Construction Products Standards Committee. The Construction Products Standards Committee will be comprised of technical experts and academics and it will advise the Secretary of State for Housing on whether voluntary industry standards for construction products should also become UK regulatory standards, a role currently undertaken by the European Commission. The Construction Products Standards Committee will also provide advice and recommendations on the conformity assessment process and product test standards. In particular the Construction Products Standards Committee will advise on:

- the assumptions and weaknesses within the current testing regime, including the effectiveness and accuracy of current tests;
- ways to improve the testing regime and new tests to address the weaknesses; and
- innovation in how construction products are tested.

The Government has engaged with key stakeholders to ensure the establishment of the Construction Products Standards Committee addresses some of the key issues on product standards identified by the Independent Review and in the Grenfell Tower Inquiry Phase One Report. Stakeholders have been supportive of these proposals and the first meeting of the Construction Products Standards Committee is expected to take place shortly.

# 7. Promoting competence: improving performance across industry and within building control

*Refer to chapters 5 and 7 in the accompanying ‘Summary of responses’ document for a summary of responses to the individual consultation questions discussed in this chapter.*

For the new building safety system to operate effectively, it will require the competence of those working in the building sector to be of a sufficient standard to give confidence to duty-holders, regulators and residents that they are able to carry out their job in a manner that will ensure quality, safety and compliance with building regulations. This requires a more coherent and consistent approach to assessing and assuring the competence of people across all disciplines working on buildings.

## Industry Competence

The industry-led Competence Steering Group, and its constituent working groups, has made significant progress towards this ambition, publishing its interim report in August 2019 for consultation with the built environment sector. The interim report proposed that relevant professional and trade bodies should increase competence within their own sectors through a number of key recommendations including designing sector-specific competence frameworks. It also proposed the creation of an overarching competence framework standard that would cover all professions and trades and would set out the benchmark competence requirements including the relevant core skills, knowledge, experience and behaviours, to be used to ensure consistency across the built environment sector.

The Competence Steering Group’s final report, reflecting the comments received through their consultation, is expected to be published in due course. Noting the positive feedback about these proposals from respondents to the ‘Building a Safer Future’ consultation, the Government looks forward to the publication of the final report from the Competence Steering Group and will review the recommendations and underpinning detail on how the sector-specific and overarching competence framework standard will be implemented.

In the meantime, the Government is working with the British Standards Institution and industry to formalise and implement elements of this work. The British Standards Institution intends to establish a Strategy Group to advise on the creation of a suite of national standards, with supporting documents that will set out a common language and principles for competence requirements and provide a framework for the three critical roles of Principal Designer, Principal Contractor and Building Safety Manager. These national standards will be developed with industry and other stakeholders to enable consistency across independent assessment and third-party accreditation of individual schemes offered by qualifying bodies and industry associations. These new national standards will provide a bridge to the wider competence requirements being

developed for the improvement of skills, knowledge, experience and behaviours of the professional and tradespeople working in buildings.

To oversee the longer-term development of the competence frameworks the Building Safety Regulator will establish a new industry-led committee to continue the momentum of the industry work. This committee will drive improvements in levels of competence through a number of oversight and assurance functions, including:

- Filling gaps in the competence landscape by taking a collegiate approach to peer-reviewing and assessing sector-specific competence frameworks against the overarching standard;
- Providing a forum for bodies representing the range of disciplines in scope to work collaboratively to monitor, refresh and review individual competence frameworks and to drive competence more widely;
- Providing advice and guidance to assist clients, duty-holders and residents in determining whether those they have employed are competent and the criteria they should use to assess them;
- Signposting Committee recommended competence schemes or registers for those working on buildings in scope, operated by professional/trade or qualifying bodies;
- Providing guidance and signposting to industry to applicable legislation and standards relevant to buildings in scope, advising and promoting the integration of learning into continuous improvement cycles and through competence training; and
- Conducting independent analysis and research into the competence landscape across industry and identify competence and training gaps, making recommendations on how competence standards can be continuously improved across the industry.

The Government is also working with the Architects Registration Board to assess how architects maintain and enhance their competence throughout their career.

The Building Safety Regulator may also play a role in assuring that the Clients have suitable management systems in place to ensure that the Principal Designer, Principal Contractor and Building Safety Manager working in buildings within scope of the more stringent regulatory regime have the necessary competence requirements and the skills, knowledge, experience and behaviours for the work they are engaged to undertake.

## Building Control Competence

The Building Safety Regulator will ensure that the regulatory teams overseeing the buildings in scope of the more stringent regulatory regime are competent to perform their roles.

The Building Safety Regulator will be responsible for oversight of the competence and performance of building control professionals and the building control bodies in which they work, taking a wider view of the professionalism and culture that needs to support building safety in all classes of work, not just in-scope buildings.

We intend to create a unified professional structure for building control covering both local authority staff and Approved Inspectors. This will take into account the lifetime view of recruitment and the acquisition and maintenance of competence throughout an individual's career. In line with suggestions by respondents to the consultation, there will be a single body overseeing both public and private sector building control. This body will either be the Building Safety Regulator itself or a

body to which the Building Safety Regulator gives the task of performing this function on its behalf, based on a framework set by the Building Safety Regulator.

The professional structure would be designed to increase regulatory standards across the sector under a single robust set of standards for competence. It would enable greater collaboration and knowledge-sharing across a profession that is currently separated into private and public sector branches and establish clearer career paths – helping to address entry hurdles and retention issues to increase capacity. There will be a responsibility to promote building control competence and to deliver a strategy to improve this over time.

The Government intends to provide the legislative framework for this profession through the Bill and expects that practical details about the administration of the profession would be developed by the Building Safety Regulator or a designated body in discussion with building control professionals, bodies and their representatives. The Department will continue to explore how Competent Person Schemes will work for buildings in scope under the supervision of the Building Safety Regulator, as recommended in the Independent Review.

# 8. A robust environment of compliance and deterrence: ensuring the reforms are delivered

*Refer to chapter 7 in the accompanying ‘Economic assessment’ document for an updated economic assessment for the known costs and benefits to date for proposals discussed in this chapter. Refer to chapter 9 in the accompanying ‘Summary of responses’ document for a summary of responses to the individual consultation questions discussed in this chapter.*

Since the tragedy of the fire at Grenfell Tower, the Government has seen many parts of the sector step up and take responsibility for reforming the building safety system. However, we know that, to avoid falling into the traps that led to the shortfalls identified in the Independent Review, the new system will require credible and effective enforcement and sanction powers. The Building Safety Regulator will have greater powers and more opportunities to intervene under the new regime.

## Incentivising the right behaviour

The introduction of Gateways during the design and construction phase of buildings in scope will incentivise duty-holders to consider all aspects of the building regulations, and particularly fire and structural safety, at the earliest opportunity. That is because each Gateway point will provide a hard stop against developments progressing if the Building Safety Regulator is not satisfied with the design or construction of a building or the proposals for managing risks to its fire and structural safety. Where work has taken place that contravenes requirements the regulator will be able to take compliance action as described in the next section.

During occupation, the ongoing obligation on the Accountable Person to understand and manage fire and structural safety risks under the new safety case regime will require them to ensure the continuous monitoring and management of risks as they arise. Residents will be incentivised to consider how their actions could impact on the overall fire and structural safety of their building through the provision of information and a duty to comply with the Building Safety Manager in the discharge of their duties.

## Enforcement and Sanctions

Where a collaborative approach fails to achieve the desired outcome, or where the Building Safety Regulator determines that a breach warrants more serious or timely action, it will intervene to secure compliance. As described in the consultation, in the first instance, this will normally be through the issuing of informal advice; if this fails to lead to an acceptable level of safety, the Building Safety Regulator will be able to issue ‘stop’, ‘compliance’ or ‘improvement’ notices. These notices will require action to be taken to correct problems; failure to respond to an improvement notice may lead to the regulator issuing a stop notice, requiring some or all work on site to cease; in addition, breach of any of these notices will be a criminal offence.

If the notices also fail to achieve compliance, the Building Safety Regulator will have the power to take other enforcement action against the duty-holders. The Building Safety Regulator will have a range of tools available, including reviewing the Building Registration Certificate, which could ultimately lead to revocation and, where appropriate, the ability to prosecute duty-holders and/or the Accountable Person as appropriate, potentially leading to an unlimited fine.

The sanctions should reflect the degree to which fire or structural safety has been compromised. They will also reflect the need to deter non-compliance effectively – as the Independent Review set out, penalties must “...ensure that duty-holder compliance with the legal requirements is far more straightforward and cost-effective than non-compliance.” For example, a stop notice, preventing further work on a site until safety issues are addressed, will be likely to cost developers many thousands of pounds per day on a large development – making short cuts to save a relatively small amount of money essentially futile.

## 9. Interacting with existing regulatory regimes: a complementary framework

Responses to the consultation raised concerns about the interaction between enforcement under the Housing Act 2004, following a Housing Health and Safety Rating System assessment, and the Fire Safety Order in multi-occupied residential buildings. Respondents were keen that the interaction between the requirements relating to fire safety were made clear. There were also concerns about how the new regime would fit alongside the existing regimes and concerns that local authorities could potentially be notified of building issues via three separate regulatory functions.

The Government intends to address this interaction and make sure that there is clear guidance about the applications of each regime – in multi-occupied residential buildings – and that there are effective local agreements in place between the regulators on how the regimes will be enforced and how intelligence is shared to ensure that residents feel, and are, safe in their homes. For example, the review of the Housing Health and Safety Rating System will make the system more accessible to all groups, including local authorities and Fire & Rescue Services, who respectively enforce both the Housing Act 2004 and the Fire Safety Order. A follow up consultation on proposals for the Fire Safety Order is also planned for spring 2020.

The new regulatory framework will supplement the existing requirements that are already placed on multi-occupied residential buildings under the Fire Safety Order and alongside the enforcement powers local authorities have under the Housing Act 2004. Alongside the new regime, both existing regimes will continue to play a role in managing the overall safety in multi-occupied residential buildings and ensuring that residents have a route of escalation should they have concerns about their safety.

The Fire Safety Order came into force in October 2006 and brought the common parts of multi-occupied residential buildings within the scope of mainstream fire safety legislation for the first time. The Accountable Person may be the responsible person under the Fire Safety Order, but it will be on the relevant duty-holder to demonstrate that their actions have met both the requirements of the new regime and the existing Fire Safety Order requirements. Where a building is mixed-used, the Government will introduce duties of cooperation between the responsible person(s) under the Fire Safety Order and the Accountable Person(s) under the new regime in order to ensure that the building as a whole is effectively managed.

The Housing Health and Safety Rating System is a risk-based evaluation tool used by local authorities to identify and protect against potential risks and hazards to health and safety from any deficiencies identified in homes. It was introduced under the Housing Act 2004 and applies to residential properties in England and Wales. The Housing Health and Safety Rating System assesses 29 housing hazards and the effect that each may have on the health and safety of current or future occupants of the property. The more stringent regulatory regime will sit alongside the enforcement powers local authorities have under this legislation. If a local authority identifies a hazard that is at a serious ‘category one’ level, including in relation to fire or structural safety, it has a legal duty to act. The Government expects that the local authority will also alert the Building Safety Regulator at the same time as taking the necessary action.

As the Housing Act 2004 allows local authorities to take action in respect of 29 specified hazards, going wider than just fire and structural safety, it is important local authority enforcement continues alongside the new regulatory framework. A Housing Health and Safety Rating System assessment is a snapshot of hazards caused by deficiencies in a home and local authority enforcement can be the quickest and most efficient way of safely remedying these hazards. The Government is undertaking a review of the Housing Health and Safety Rating System to bring it up to date, make it more accessible to different audiences and a better tool for local authorities. We will take this opportunity to ensure it aligns with and works effectively alongside the Fire Safety Order and the more stringent regulatory regime.

# 10. Improving the whole system: wider measures on building safety

Alongside the more stringent regulatory regime the Government is committed to a fundamental reform of the wider building safety system. We are delivering this ambition through a number of legislative and non-legislative measures.

## Fire Safety Bill

The Home Office's Fire Safety Bill, introduced in Parliament on 19 March 2020, will put beyond doubt that building owners and managers of all multi-occupied residential buildings must assess the risks from external walls (including cladding and balconies) and front entrance doors under the Regulatory Reform (Fire Safety) Order 2005. The Bill will also affirm that Fire and Rescue Authorities have the relevant enforcement powers to hold building owners and managers to account, supplementing the local authority enforcement route. It will also provide a firm foundation for the implementation of the relevant recommendations of the Grenfell Tower Public Inquiry Phase 1 Report requiring law changes.

## Testing of non-ACM cladding systems

On advice on the Independent Expert Advisory Panel we commissioned research into the burning behaviour of a range of non-ACM materials. This has significantly improved our understanding of the burning behaviour of other materials. The tests, including on different types of High-Pressure Laminate (HPL) and on timber cladding show that none of the materials tested behaved in the same way as the worst performing ACM (ACM PE). Nonetheless, the Government's position is that any unsafe cladding material must be removed.

## Updates to Approved Document B

Following the Government's consultation on Approved Document B, we will publish an update to Approved Document B that will include increased fire safety measures in high rise flats. This will include measures requiring sprinkler systems and introducing the provision of wayfinding signage in all new high rise flats over 11 metres tall. The Government also consulted on a requirement for evacuation alert systems and is working with the National Fire Chiefs Council on a series of tests of new technology in this area, with a view to including guidance in a later update to Approved Document B.

The Government has published a plan for the full technical review of Approved Document B and is now beginning to commission the required research for this crucial fundamental review.

## Wider changes to the Building Act

The ‘Building a Safer Future’ consultation focussed on how the Government intended to implement the recommendations of the Independent Review. However, we want to improve the whole building regulations’ system, not just for those buildings in scope of the more stringent regime. Dame Judith recognised that over time some of her reforms could be applied more widely and there was strong support for extending our proposals for a new duty-holder regime to cover all building work on all types of building. Therefore, as well as legislating for the reforms set out in this document, the Government will also be looking to use the Building Safety Bill to make improvements to other parts of the legislation where this will further our objectives of improving building safety; make the legislation clearer and more understandable; and so, strengthen compliance and help enforcement.

## Procurement

The Government recognises the key role procurement plays in ensuring safety of buildings, agreeing with the Independent Review that said, “the procurement process kick-starts the behaviours that we then see throughout the design, construction, occupation and maintenance”. Fire and structural safety issues can be exacerbated by poor procurement, including poorly designed tender specifications and processes, eleventh hour contractor appointments, lack of appropriate engagement with the supply chain and contract forms which prioritise low-cost solutions at the expense of building safety. These practices can result in poor value for money and poor building safety outcomes.

The Government believes that collaborative procurement approaches can help to mitigate some of the poor behaviours identified above. Previous work by the government including the Government Construction Strategy 2016-2020 and the Trial Projects Delivery Group provide both the case and evidence for implementation of collaborative procurement methods. The Ministry of Housing, Communities and Local Government will build on work already undertaken to develop practical guidance for the implementation of collaborative procurement methods for the procurement of buildings in scope. This work is overseen by a Procurement Advisory Group comprising procurement experts from industry, professional associations, government and the legal profession.

The Government recognises that it has a key role to play, both as a client and in establishing and maintaining construction frameworks used by housing associations and the wider public sector. The Crown Commercial Service has now appointed suppliers onto its new alliance construction framework called ‘Construction Works and Associated Services’. This framework is available to all public sector organisations and has a Lot specifically for multi-occupied residential buildings (Lot 7), designed and included for Building a Safer Future in mind.

Lot 7 provides an opportunity to implement Dame Judith Hackitt’s recommendations ahead of new legislation. The framework already includes provisions that allow the detailed performance measures and specifications to be developed in conjunction with framework clients and suppliers. The Crown Commercial Service and the Ministry of Housing, Communities and Local Government are therefore currently working closely together to develop these detailed requirements, based on the Independent Review recommendations, which will ensure framework clients and suppliers

deliver safe buildings. The framework arrangements will also allow the Crown Commercial Service and the Ministry of Housing, Communities and Local Government to work with suppliers to understand the pipeline of public sector high rise-residential projects in order to better target the improvement of sector capability and capacity.

# 11. Glossary of terms used

Terms used are provided for the purposes of this consultation response only.

<b>Accountable Person</b>	The duty-holder during a building's occupation.
<b>Approved Document</b>	Guidance approved and issued under section 6 of the Building Act 1984 to provide practical guidance on ways to comply with the requirements in the Building Regulations 2010.
<b>Approved Document B</b>	Guidance on ways to comply with the fire safety requirements in Part B of Schedule 1 to the Building Regulations 2010
<b>Approved Inspector</b>	A person approved under section 49 of the Building Act 1984 to carry out building control functions as an alternative to local authority building control.
<b>Building control</b>	A statutory process of ensuring that building work complies with building regulations' requirements including by assessing plans for building work and building work on site.
<b>Building control bodies</b>	A local authority or an Approved Inspector who assesses compliance with Building Regulations' requirements.
<b>Building Regulations Advisory Committee</b>	The Committee (appointed under section 14 of the Building Act 1984) which advises the Secretary of State in England on proposals to make or change building regulations and the system in which they operate. The Committee also provides expert advice to the Secretary of State on related matters such as the health and safety, welfare and convenience of people in and around buildings; energy conservation and the sustainability of buildings.
<b>Building Safety</b>	'Building Safety' refers to fire safety and structural safety of buildings. This may also apply to other disciplines such as electrical and gas safety, where these could impact the fire safety of the building.
<b>Building Safety Charter</b>	Voluntary Charter which was established by the Early Adopters Group with the support of the Ministry of Housing, Communities and Local Government, with the vision of creating "An industry committed to putting people's safety first."

The Building Safety Charter is in the process of being established and rolled out across the industry with the Considerate Constructors Scheme as the appointed administrative partner. The Charter, which is intended to support and align with the Building Safety Regulator, focusses on putting safety first through independent verification and benchmarking; driving cultural and behavioural change; sharing and promoting best and better practice, increasing public reassurance and trust mainly through providing an independent public portal for engagement, and, contributing to the creation of safer buildings.

## **Building Safety Manager**

Named by the Accountable Person, the Building Safety Manager will support the Accountable Person by carrying out the day to day functions of ensuring that the building is safely managed and promote the openness, trust and collaboration with residents fundamental to keeping buildings safe

## **Common parts**

Those parts of domestic properties (such as a block of flats) which are used in common by the occupants of more than one flat (such as the corridors and fire-escape routes).

## **Compartmentation**

The sub-division of a building into parts to prevent the spread of fire to or from another part of the same building or an adjoining building. For example, compartment walls and floors with a rated period of fire resistance are provided to separate individual flats.

## **Competence Steering Group**

An industry-led group established to develop proposals for oversight of competence and increased competence in key disciplines across design, construction, inspection, maintenance and management of buildings

## **Construction control plan**

One of the core information products that duty-holders must produce in the design and construction phase. Produced by the principal contractor, it describes how building safety and Building Regulations compliance will be maintained during the construction phase and how change will be controlled and recorded.

## **Construction (Design and Management) Regulations**

The Construction (Design & Management) Regulations 2015. The main set of regulations for managing the health, safety and welfare of construction projects.

<b>Duty-holders</b>	The key roles (whether fulfilled by individuals or organisations) that are assigned specific responsibilities at particular phases of the building life cycle.
<b>Fire and Emergency File</b>	One of the core information products that duty-holders will be required to produce during the design and construction phase. This builds upon the fire statement produced at gateway one (where produced) and sets out the key building safety information. The file will then be updated and ultimately passed across to the person accountable for safety during the occupation phase
<b>Fire risk assessment</b>	A fire risk assessment is an organised and methodical look at the premises, the activities carried on there and the likelihood that a fire could start and cause harm to those in and around the premises. Under the Fire Safety Order, the aims of the fire risk assessments are to identify the fire hazards, to reduce the risk of those hazards causing harm to as low as reasonably practicable and to decide what physical fire precautions and management arrangements are necessary to ensure the safety of people in the premises if a fire does start.
<b>Early Adopters Group</b>	Construction firms and housing associations that are piloting key elements of the new regulatory regime. Willmott Dixon, Wates, L&Q, Salix Homes, Peabody, United Living, Barratt and Kier are working with government to provide insight on and trial new ways of working, and assess benefits in the buildings they are constructing or managing
<b>Gateway Points</b>	Three key stages in the building lifecycle where the duty-holder must demonstrate that they are managing building safety risks appropriately before they are permitted by the relevant regulator to continue to the next stage of development.
<b>Implementation Plan</b>	Refers to 'Building a Safer Future: An Implementation Plan'. Published in December 2018 this set out how we intend to take forward Dame Judith Hackitt's recommendations.
<b>Local Authority Building Control</b>	In this consultation response, local authority building control services are referred to as Local Authority Building Control
<b>Principal Contractor</b>	Under the Construction (Design and Management) Regulations 2015 a principal contractor is a contractor appointed by the client to take lead control during the construction phase of any project where there is more than one contractor involved.

<b>Principal Designer</b>	Under the Construction (Design and Management) Regulations 2015 a principal designer is a designer who is an organisation (or, in some cases, an individual) appointed by the client to take lead control of the pre-construction phase of any project where there is more than one designer involved.
<b>Public Interest Disclosure Act</b>	Public Interest Disclosure Act 1998 protects workers from detrimental treatment or victimisation from their employer if, in the public interest, they make certain types of protected disclosures.
<b>Resident Engagement Strategy</b>	There is a requirement on the accountable person to produce and run a comprehensive resident engagement strategy. This should set out how the accountable person will deliver resident involvement and participation in their buildings and outlines what residents can expect by way of communication and how they can get involved and raise concerns.
<b>Responsible Person</b>	Under the Regulatory Reform (Fire Safety) Order 2005, a responsible person is generally an employer or, in premises which are not a workplace, the owner or other person who has control of the premises in connection with carrying on of a trade, business or other undertaking (whether for profit or not).
<b>Safety Case</b>	A structured argument, supported by a body of evidence that provides a compelling, comprehensible, evidenced and valid case as to how the Accountable Person is proactively managing and controlling fire and structural risks