

Building a safer future: proposals for reform of the building safety regulatory system – a consultation

This is a summary of the government consultation issued on Thursday 6th June as the next phase of implementation of the Hackitt Review of Building Regulations and Fire Safety.

The Secretary of State for Housing, Communities and Local Government, James Brokenshire, has announced the publication of the latest government consultation on the building regulatory system. The consultation seeks views on proposals for a new system of building and fire safety regulation, which is the next stage in the implementation of the Independent Review of Building Regulations and Fire Safety, led by Dame Judith Hackitt.

The consultation is titled ‘Building a safer future: proposals for reform of the building safety regulatory system – a consultation’, and it outlines government proposals for meaningful legislative reform. It seeks views on five areas of the proposed new regime.

1. Scope. The new regime is proposed to apply from the outset to all new and existing multi-occupied residential buildings of 18 metres or more. This is broadly in line with the ban on combustible materials introduced last December. The system is intended to have flexibility to include other building types over time, based on evidence of potential risk and further research. The 18m threshold replaces the 30m limit which Dame Judith originally proposed, and goes some way to respond to industry concerns that the 30m limit was too restrictive. This is covered in chapter 2 of the consultation.

2. Dutyholders. A comprehensive dutyholder regime is proposed, to cover the whole life of a building from design through construction and occupation. It will include existing occupied buildings, with clearly identified people directly accountable for the safety of residential buildings over 18 metres high. The proposed dutyholder regime will for the first time provide clear accountability on who owns building risks, and sets out clear responsibilities for managing the risks so that buildings are safe for residents.

These statutory responsibilities include creating and maintaining digital records of a building and producing a safety case for approval by the new building safety regulator before a building safety certificate is issued. This is a very significant element of the consultation for the engineering community, and is covered in chapter 3, which is presented in three parts, which cover:

Part A – duties in design and construction;

Part B – duties in occupation and operation;

Part C – duties that apply through the building life cycle;

3. Residents voice. The proposal seeks views on giving residents a stronger voice in the new regime. It is proposed that residents should receive better information on their buildings so that they can participate in decisions about safety, as well as providing clear and quick routes of escalation for their concerns if things go wrong. This is the subject of chapter 4.

4. A new Regulator. Chapter 5 of the consultation outlines plans for a new building safety regulator to provide oversight of the new building safety regulatory regime. The new regulator is intended to oversee the wider building and regulatory system, incorporating and improving on the functions currently undertaken by the Building Regulations Advisory Committee (BRAC). It is also proposed to strengthen the oversight and regulation of construction products. It will be responsible for driving the work to improve the competence of the professions and trades working on buildings.

Government are also ‘seeking views’ on the Competence Steering Group’s proposals for an industry committee comprising relevant industry bodies, independent experts, building owners and residents to be established with specified functions to drive competence. This is proposed as part of industry's proposal for an overarching system for oversight of competence. It is not clear at this point what view government takes of these proposals.

There are additional proposals to strengthen the regime for construction product safety and to clarify the responsibility of manufacturers whilst also increasing market surveillance and oversight and introducing a national complaints system and strengthening the role of third party product accreditation.

5. Enforcement and compliance. Finally, the proposed system will include strengthened enforcement and sanctions to deter non-compliance with the new regime. Government intends this to drive real culture change across the industry.

The Independent Review highlighted the current lack of enforcement action and consequent lack of deterrence against non-compliance. Chapter 6 of the consultation sets out proposals to incentivise compliant behaviour allied to a new, tougher, regime and a wider building safety regulatory framework, with greater powers and more opportunities for intervention through credible and effective enforcement and sanction powers.

A three-step process is proposed for the building safety regulator to achieve this through:

- Reinforced operating standards and provision of professional guidance and seeking to achieve compliance by informally working with dutyholders whilst keeping evidence of intervention;
- Formal, proactive intervention and monitoring, where the informal approach does not deliver the desired outcome and for more serious failure to comply, including issuing statutory stop notices or improvement notices;
- Formal enforcement action, including formal orders, withdrawal of the building safety certificate and prosecution of dutyholders.

The consultation package includes several documents, including:

- The consultation package - <https://www.gov.uk/government/consultations/building-a-safer-future-proposals-for-reform-of-the-building-safety-regulatory-system> This includes a summary of responses to the call for evidence on engagement with residents and the

report from the industry-led Competence Steering Group setting out their proposals for oversight of competence.

- A quick read guide - <https://www.gov.uk/government/consultations/building-a-safer-future-proposals-for-reform-of-the-building-safety-regulatory-system/building-a-safer-future-quick-read-guide>

- A Written Ministerial Statement - <https://www.parliament.uk/business/publications/written-questions-answers-statements/written-statement/Commons/2019-06-06/HCWS1605/>

- The government news release - <https://www.gov.uk/government/news/residents-encouraged-to-have-their-say-to-improve-building-safety>

In parallel with this consultation the Government is also launching a call for evidence on the Regulatory Reform (Fire Safety) Order 2005. Government wishes to make the Order fit for purpose for all buildings it regulates, and the Call for Evidence is the first step to updating the evidence base on the effectiveness of the Order. The call gives an opportunity for fire safety professionals and businesses or individuals regulated by the Fire Safety Order to share their views and experience on how the Order works in practice.

The consultation opened on 6th June and runs for 8 weeks until 31st July. Government has undertaken to continue to engage with residents, industry and the wider sector as the proposals are developed further.