

BUILDING A SAFER FUTURE

Overview for Longworth Building Services Limited

Of...

Dame Judith Hackitt's
Independent Review of Building Regulations and Fire Safety

Overview

An interim and final report have been produced by Dame Judith Hackitt following the unfortunate events at Grenfell Tower in 2017. The final report was issued spring 2018 with strong references made to the interim report throughout. The idea behind the report is to explore regulatory bodies and the construction industry with regards to resident safety in high rise.

Various issues are highlighted throughout and changes have been recommended. Dame Judith Hackitt highlights key issues underpinning the system failure:

Ignorance – Guidance and legislation isn't necessarily read and can be misunderstood and misinterpreted.

Indifference – The primary motivation seems to be to get things done as quickly and cheaply as possible. When concerns are raised they are often ignored. Some carrying out the building work don't seem to prioritise safety.

Lack of Clarity – On roles and responsibilities, increased by fragmentation within the industry.

Inadequate regulatory oversight and enforcement tools – project size and complexity does not seem to determine how it is regulated and where enforcement is necessary the penalties are ineffective deterrents.

'The above has helped to create cultural issues...either caused through ignorance, indifference or because the system does not facilitate good practice'

The new framework is designed to:

Create a more simple and effective mechanism for driving building safety – a clear and proportionate package of responsibilities for duty holders across the building life cycle. This means more time spent up front getting safety right in the scope.

Provide a stronger oversight of duty holders with incentives for the right behaviours and effective sanctions for the wrong behaviours – a single regulatory body to oversee duty holder's management with a strengthened set of intervention points.

Re-assert the roles of the residents – a no risk route for redress will be created and greater assurances about the safety of their home will be offered, ensuring residents are aware of their responsibilities for keeping their building safe.

The report supports an outcome based approach which requires those undertaking the work, and those appraising it, to have sufficient levels of knowledge, skills and expertise to make appropriate judgement calls.

The Interim Report and Final Report are available on the [direct.gov](https://www.direct.gov.uk) website

Enhance the Current model of responsibility:

Those who **procure, design, create** and **maintain buildings** are responsible for ensuring those buildings are safe for those who live and work in them.

Government will set clear out-come based requirements for building safety standards (i.e. not prescribed check lists)

The **regulator** will hold duty holders to account.

Residents will actively participate in the ongoing safety of the building and must be recognised by others as having a voice.

Recommendations

A **new regulatory framework**, focused in the first instance, on higher risk residential buildings (HRRBs)

A new **Joint Competent Authority (JCA)** comprising of

- Local Authority Building Standards
- The HSE
- Mandatory incident reporting mechanism

Improving focus at Design, Construction and Refurb phases

Rigorous and demanding duty holders responsibilities to ensure a stronger focus on building safety which will broadly align with CDM Regulations 2015.

Robust gateway points to strengthen regulatory oversight which will mean the duty holders must show the JCA that:

- Their plans and details are robust
- Their understanding and management of building safety is appropriate
- They can properly account for the safety of the completed building in order to gain permission to move to the next phase of work and in due course allow their building to be occupied

Stronger change control process – i.e. record keeping all changes made to detailed plans previously signed off by the JCA. **More significant changes will require sign off from the JCA before proceeding.**

A Single more streamlined regulatory route to oversee building standards as part of the JCA to ensure independence from clients, designers and contractors and that enforcement can and does take place where necessary.

More rigorous enforcement powers by creating a wider more flexible range of powers to focus incentives of reliably safe buildings from the outset.

Improving Focus on Building Safety during Occupation through

A **clear and identifiable duty holder for building safety** of the whole building during occupation and maintenance and should maintain the fire and structural safety of the building, identifying and making improvements where possible.

A **safety case** to be presented to the JCA at regular intervals to check that safety risks are being managed as reasonably practicable.

A **regulator** for the whole building (the JCA) who can take a proactive and holistic view of building safety holders and duty holders to account with robust sanctions where necessary.

The Golden Thread of Information

Obligation of the creation of a **digital record** for new HRRB's **from initial intent through to construction** including any changes occurring through occupation phases. This information will be used by the duty holders to demonstrate to the regulator the **building safety throughout its life cycle**.

Tackling poor procurement practice to drive the right behaviours to make sure **low-risk, high-safety options are prioritised** and full **life cycle cost is considered**.

Ensuring continuous improvement and best practice learning through membership of an international body

Giving Residents a Voice

By providing:

- Greater transparency on building safety
- Better involvement in decision making
- No risk route for residents to escalate concerns on fire safety through an independent statutory body that can provide support where service providers have failed to take action

Competence

Setting out demanding expectations on levels of competence through:

Construction sector and fire safety sector demonstrating more effective leadership for ensuring building safety amongst key roles including an **over arching body to provide oversight of competence requirements**.

Moving towards a system where ownership of **technical guidance rests with the industry** as the intelligent lead in building safety, keeping pace with changing practices, with continuing **oversight from an organisation prescribed by government**.

A package of **regulations and guidance** that is simpler and easier to navigate but **reflects the complexity** of the building work.

Robust and Transparent Construction Products Regime

A more effective testing regime with clearer labelling and product traceability including periodic review process of test methods. This regime would be underpinned by a more effective market surveillance system operating at a national level.

Cost Savings Associated with New Framework

Research from the USA suggests net savings in the region of 5% of the costs in relation to new build where a digital record is utilised.

In addition the clearer roles and responsibilities could:

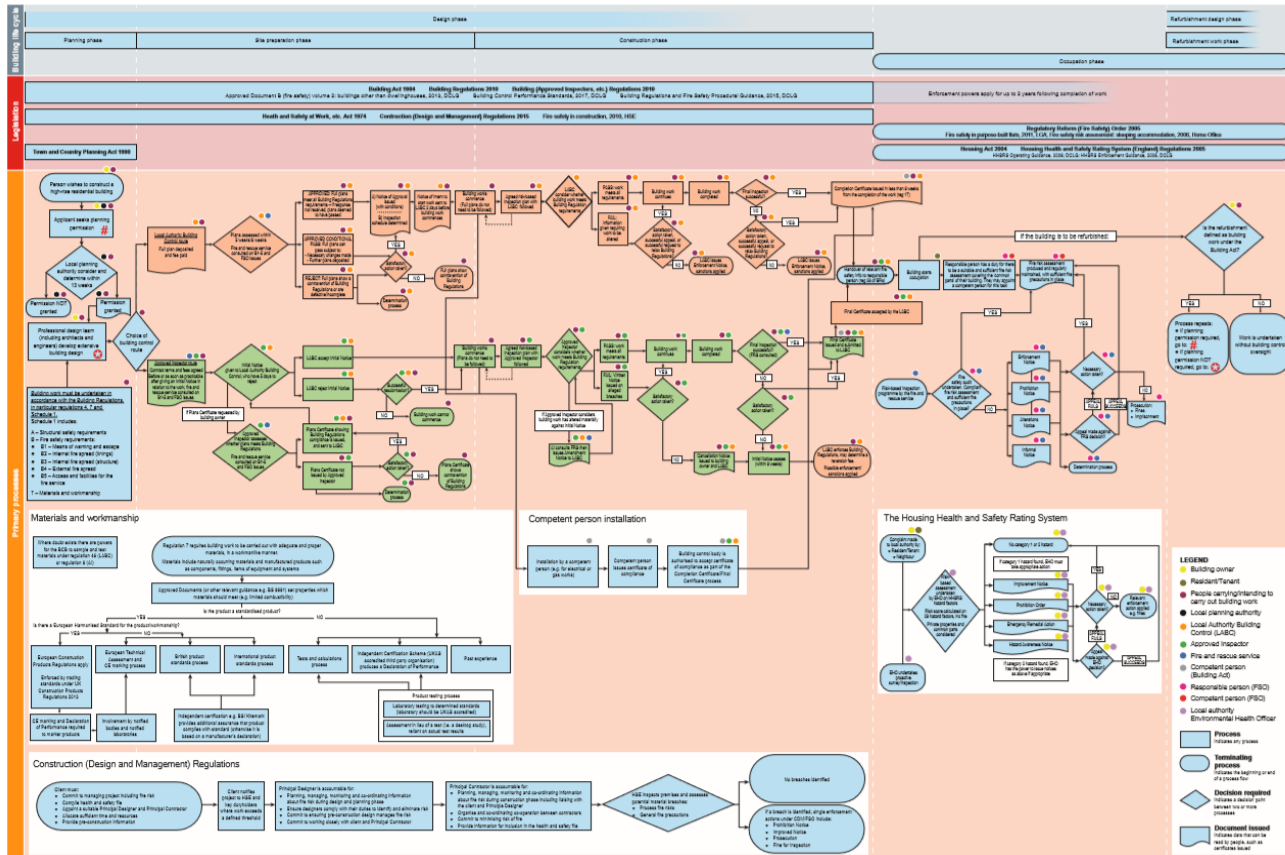
- Create certainty in the market in terms of what change looks like both immediate and long term
- Reduce the risk of poor quality work, increasing investor confidence and mitigating a slow down of pace
- Reduce confusion over who is responsible for what aspect of the works
- Minimise the likelihood of mistakes needing to be rectified
- Speeding up transaction processes

Current Regulatory System for High Rise Residential Buildings

The existing regulatory system (available [online](#)) was drafted and although it did not cover all detailed scenarios it was still 'highly complex', the new regulatory system is moving to a significantly simpler process because of key changes:

- The **same regulatory body** (JCA) oversees building safety across the building life cycle
- The **same legislative framework** applies across the building life cycle
- The existing **overlaps** between the Housing Act 2004 and the Fire Safety Order 2005 have been **removed**
- There are **no longer two different building control bodies** providing oversight during design and construction
- There is a new set of **JCA interventions** across the building life cycle (Gateway points)
- **Self certification** without oversight from the regulator have been **removed**.

Mapping the building and fire safety regulatory system – high-rise residential buildings



Buildings falling into this Regulatory Framework

New and existing high-rise residential properties which are 10 storeys or more. The threshold would apply to mixed-use buildings of this height **if part of it was residential**.

According to Land Registry and Ordnance Survey information there are an estimated **2,000 to 3,000 HRRB's** (High Risk Residential Buildings).

The report noted the **government should identify new buildings** which fall into this category through Local Planning Authorities and Local Government (MHCLG) Building Safety Programme (following the fire at Grenfell Tower) to compile a list of residential buildings which fall into this category.

It should be noted that although the report focuses on HRRBs the government can extend the scope in light of new information emergency, for example whistle blowing and incident reporting.

The review identifies two further classes of building:

- Multi occupancy buildings where the Fire Safety Order applies
- Institutions and other buildings used as living accommodation where people sleep e.g. hospitals, hotels, prisons and halls of residence

Some recommendations apply to all building work of any scale.

You can register for Building Safety Programme updates here: <http://www.us6.list-manage.com/subscribe?u=c15ab84b26170277014024de6&id=65a5fd535d>

Recommendation 1.1

The new regulatory framework should apply to residential properties which are 10 or more storeys high in the first instance. New HRRBs should be identified by the Local Planning Authority and notified to the regulator. Existing buildings in scope should be identified through other means, learning from the MHLG Building Safety Programme

Currently the regulatory framework for building life cycle involves **different regulators** working under **different pieces of legislation**. At various stages the bodies are required to communicate with the fire and rescue authorities on fire safety aspects.

- HRRBs should be **subject to closer more robust and more expert scrutiny** across the building life cycle
- Existing regulators should be **more astute at appraising building safety** and require more tools to cover the level of oversight needed

The new regulatory framework would be more effective if **regulators can learn to work with the industry** and manage risk and deliver robust and **focused safety case reviews** in the same way the HSE does with large scale chemical plants and offshore gas installations

The JCA will not mean merging the authorities but **providing a framework** for them to work together to create a more unified and consistent intervention process.

The assumption is the JCA will work on a **full cost recovery** basis.

Recommendation 1.2

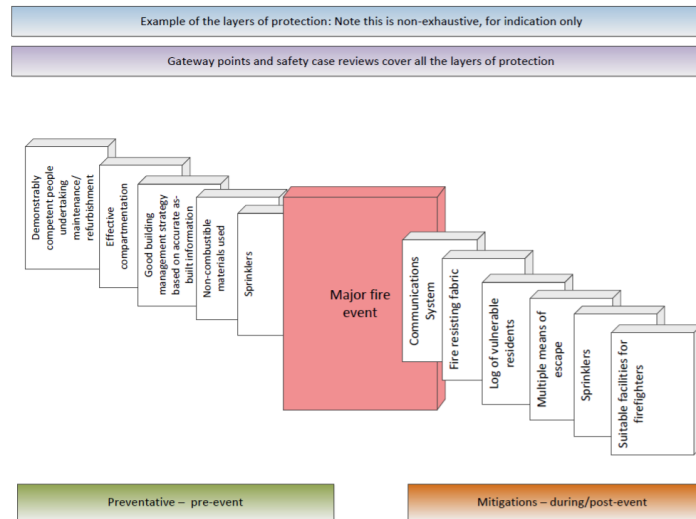
The government should set up a Joint Competent Authority (JCA). This should comprise of Local Authority Building Standards, fire and rescue authorities and the Health and Safety Executive, working together to maximise the focus on building safety within HRRBs across their entire life cycle. The optimum model for ensuring effective joint working should be discussed with all relevant parties, but should draw on the model set out above. The JCA should operate a full cost recovery model.

1. Creating and maintaining a **database of all HRRBs** and key **duty holders** for those buildings (whether in construction or already occupied)
2. **Ensuring duty holders focus** on mitigating building **safety risks** during **design** and **construction**
 1. Undertaking a series of **Gateway Point interventions** where the JCA would undertake a **thorough assessment** of the duty holders understanding and management of the **risks they are creating**
 2. Ensuring key duty holders oversight of the construction process ensuring duties are understood, key **'golden thread'** information products produced and **proper change control** processes are in place.
3. Ensure key duty holders focus on reducing **ongoing building safety risks** during occupation and maintenance
 1. Requiring duty holders to provide **periodic safety reviews** to demonstrate building safety is being maintained
 2. Requiring duty holders to **make improvements** where necessary to reduce building risks
4. Handling and assessing ad-hoc building safety concerns namely through
 1. **Mandatory** reporting of safety concerns
 2. **Referrals** made by Environmental Health Officers (EHOs)
 3. **Escalated** referrals made by residents of HRRBs
5. Requesting **testing of construction products** that are critical to HRRB building safety
6. Requesting **annual reports from product testing houses** providing summary details of the types of products tested and the numbers of passes or fails reported
7. Helping the proposed new government body to **validate and assure guidance** produced by industry to meet the **outcome based goals of the Building Regulations**

Duty holders must be able to show the JCA that they have understood both the ways in which building safety risks are going to be managed (e.g. through a fire prevention strategy that incorporates both passive and active fire protection measures) and the wider impacts on building requirements (e.g. thermal efficiency) can have on that strategy. The fire prevention strategy must be recognised as an integral part of the design from the outset.

Construction can be siloed, this is why the building must be treated as a single entity (with sub systems)

- Ensuring core components parts that impact on building safety are understood
- Ensuring common fault conditions are mitigated e.g. lack of water impact on a fire
- Building analysis should be evidence based
- The 'Example Layers of Protection for a HRRB' gives some items to consider



Recommendation 1.3

The regulatory framework should treat the building as a single entity (a system encompassing sub-systems) and a new over-arching Approved Document should be published describing the system and the holistic analysis that must be completed when undertaking building work. This should define the requirement to understand the interactions of the system and its comprising subsystems both in normal operation and outside normal conditions.

Currently there is no coherent approach to reporting issues during the construction or occupational buildings in scope, nor is there any protection for people reporting these issues.

There are two potential methods of reporting:

1. Confidential reporting with no requirement to do so

Model used for CROSS (Confidential Reporting on Structural Safety) it relies on a skilled individual to recognise the issue and report it. There is little evidence the reports are systematically analysed.

2. Mandatory occurring reporting

Used by the Civil Aviation Authority which operates a mandatory occurrence (any safety related event, which endangers or which, if not corrected or addressed, could endanger an aircraft, its occupants or any other person and includes an accident or serious incident).

Recommendation 1.4

- a. A system of mandatory occurrence reporting to the JCA similar to that employed by the Civil Aviation Authority should be set up for HRRBs. The requirement to report should be for key duty holders on a no-blame basis. The outputs of these reports (and statistical analysis of this data) should be publicly available. Non-reporting should be regarded as non-compliance and sanctions applied appropriately.
- b. It would be appropriate for the JCA to be a prescribed person under PIDA
- c. For all other buildings the current CROSS scheme should be extended and strengthened to cover all engineering safety concerns and should be subject to formal review and reporting at least annually

The review repeatedly heard that common practices such as design and build contracts and value engineering can often result in uncontrolled, undocumented and poorly designed changes made to the original design intent.

- The current regulatory system does not properly identify who the duty holder is in procuring, design and construction of buildings should be and key accountabilities that flow from these roles.
- The current system does not provide regulators overseeing the building work with the necessary powers to hold duty holders to account and to ensure appropriate standards are met.

Chapter 2 of the report outlines

- Creating empowered and responsible duty holders
- Strengthening regulatory oversight of key duty holders
- Wider changes to support duty holders and regulators
- Models to underpin regulatory effectiveness
- An enforcement regime that properly incentivises compliance

The review ensures responsibilities are different albeit complimentary to the CDM Regulations. The review’s objectives are to ensure every building is:

- Procured, designed and constructed in such a way that the key building safety requirements (fire safety and structural safety) of the Building Regulations (and all other aspects of those regulations) are prioritised sufficiently throughout
- Designed and constructed so that everyone involved in delivering the building work has the information, instruction and skills they need to carry out their jobs in support of this overall aim
- Designed and constructed to facilitate the ongoing safe management of the building by future building owners/residents once occupied.

Table 1 – Key roles under the CDM Regulations

Key roles under CDM Regulations	Is this role critical in ensuring a focus on building safety?	Why is this role critical?
Clients	✓	Develops and maintains a sense of ownership and responsibility for building safety and regulatory compliance. Identifying the client’s responsibilities at the outset will ensure a greater degree of ongoing engagement.
Principal Designers	✓	Maintains the ownership concept on behalf of the client to ensure that Gateway Points are observed and key players are engaged appropriately.
Designers	✓	Ensures accountability and helps create an audit trail in respect of any design changes that can be followed back through the Principal Designer and ultimately to the client.
Principal Contractors	✓	Assumes primary ownership throughout the construction phase, and especially at handover to the occupation and maintenance phase.
Contractors	✓	Ensures accountability and helps to create an audit trail to ensure that any on-site changes can be followed back through the Principal Contractor and ultimately to the client.

Recommendation 2.1

Government should specify the key roles that will ensure that the procurement, design and construction processes result in HRRBs that are safe. These should be, as a minimum, those identified in the table above. The definition of these roles should reflect those in CDM Regulations to avoid unnecessary confusion.

The expectation would be that duty holders are able to show the JCA that they have the required leadership, management and competence (including through their organisations where appropriate) to routinely deliver these responsibilities.

Table 2 – Key responsibilities of dutyholders

Key roles	Key responsibilities are to
Clients	<ul style="list-style-type: none"> • Make suitable arrangements for managing the building work so as to deliver against the core objectives on building safety (and other Building Regulations priorities). • Establish procurement processes that allow sufficient time, resources and prioritisation to deliver the core objectives⁷; • Appoint key dutyholders who'll prioritise building safety and have the required skills, knowledge and experience; • Establish the necessary information management systems to facilitate successful completion and handover of the work; (e.g. the Fire and Emergency File and digital record – see below); and • Co-sign at completion that the work, to the best of their knowledge, meets building safety requirements.
Principal Designers	<ul style="list-style-type: none"> • Identify how core building safety requirements will be met in the pre-construction phase, controlling foreseeable risks and ensuring that the contractual relationships they enter into are appropriately funded to support core objectives; • Ensure that all those involved in supporting the Principal Designer have suitable skills, knowledge and experience; • Compile Full Plans documentation (see Part 2 of this chapter) for the JCA demonstrating that they have considered and managed the key risks to building safety of the proposed construction so far as is reasonably practicable; • Ensure that information management systems are properly updated and change control mechanisms are utilised (for as long as they remain involved); • Co-sign at completion of works stage (if still involved) that the work meets the Building Regulations requirements.
Principal Contractors	<ul style="list-style-type: none"> • Make suitable arrangements for the planning, management and realisation of the core objectives in the construction phase of a project. This includes ensuring that the contractual relationships are appropriately funded to support core objectives. In addition it includes: <ul style="list-style-type: none"> • preparing a construction control plan (see below); • organising cooperation between contractors with suitable skills, knowledge and experience and coordinating their work; • updating information management systems and ensuring • change control mechanisms are properly utilised; • leading demonstration at the completion of works stage that the work meets the requirements of the Building Regulations and ensure the handover of the Fire and Emergency File and the digital record to the future building owner.

Recommendation 2.2

Government should allocate broad responsibilities to Clients, Principal Designers and Principal Contractors responsible for HRRBs as set out in the table above.

Table 3 – Key information products

Information Product	What Is It?	Why?	Who?
The digital record	Digital record of the building as planned, then as built including, for example, products used. Intended to underpin an effective understanding of the constructed building across the life cycle. See Chapter 8 for more specific recommendations.	To underpin more effective delivery during design and construction phases, including more accurate records of the as-built building.	Initiated by the client, handed over and updated and finalised by the Principal Designer and Principal Contractor.
The Fire and Emergency File	Product setting out the key building safety information. The file will be initiated and then updated and ultimately passed across to the building owner (Appendix D sets out more detail ⁹).	To ensure that anyone carrying out design, construction or refurbishment work on a building can provide a clear and comprehensive record of the fire strategy for the building and its residents (including those who are vulnerable). This will help to ensure that the future building owner has a proper record of key building safety aspects so that they can understand why the fire and other safety precautions have been provided.	Initiated by the client, handed over, updated and finalised by the Principal Designer and Principal Contractor.
Full Plans	Detailed plans/specification of building works in respect of fire and structural safety as a minimum (alongside the necessary specification in all other aspects of the Building Regulations). See paragraph 2.29-2.32 below.	To demonstrate to the JCA that the building will be constructed so as to be safe, that the risks are understood and well managed and that broader Building Regulations requirements will be met. The JCA must deem this assessment sufficient for work to commence.	Principal Designer has primary responsibility.
Construction Control Plan	Describes how building safety and Building Regulations compliance will be maintained during the construction phase and how change will be controlled and recorded.	To communicate to all those involved in the construction phase of the project. It would help ensure a sufficiently robust focus on sustaining compliance during the construction phase.	Principal Contractor has primary responsibility.

Recommendation 2.3

Government should make the creation, maintenance and handover of relevant information an integral part of the legal responsibilities on Clients, Principal Designers and Principal Contractors undertaking work on HRRBs. The four information products above represent a minimum requirement.

Recommendation 2.4

Government should consider applying the key roles and information product recommendations to other multi-occupancy residential buildings and institutional residential buildings whilst bearing in mind necessary adjustments to keep the requirement proportionate.

The expectation would be that duty holders are able to show the JCA that they have the required leadership, management and competence (including through their organisations where appropriate) to routinely deliver these responsibilities.

The regulatory framework for ensuring oversight at the design sign off stage is also weak because

- Clients and Designers opting to work with AIs are not legally obligated to submit full plans for sign off if they do not wish to do so
- Clients and Designers working with LABCs are legally required to submit 'full' plans but
 - The level of detail can be sparse even in areas such as structural safety
 - Plans can commence despite formal agreement not being in place at that time
 - There is a strict time limit to approve or deny plans
 - Plans signed off by the regulator can be totally changed once construction begins
 - Where advice from the statutory regulators differs there is no formal mechanism for dispute resolution
- Occupation often commences before a part or full completion certificate is obtained, even where it is sought:
 - Building control have no clear picture of what has changed throughout the build process
 - Consideration for the works signed off by 'competent persons' does not happen even where that work could affect fire safety of the building
 - Building control bodies have no effective mechanism to ensure high quality, essential fire safety maintenance is passed to the building owner
 - Fire safety authority has very limited ability to formally assess the fire safety of the as-built building (through limitations in practice and law)
 - Scope for formal enforcement action (where building work is substandard) is limited due to commercial pressures, LA pressures and low levels of fines imposed by magistrates court.

Recommendation 2.5

The LPA should be required in law to undertake a consultation with the JCA where it identifies that a building is a HRRB. This process should also apply where planning permission for another building in the vicinity is sought (where such a building might impact on the fire service access to the HRRB). This is the first Gateway Point.

Table 4 – The key Gateway Points

Gateway Point	The relevant dutyholder must ...	In order to ...
1	Satisfy the JCA that the planned building will be sufficiently accessible by the fire service, in order for the Local Planning Authority to determine the planning application	Get permission to use the land for the intended purpose
2	Satisfy the JCA (who will conduct a review of the safety features of the proposed design) that their Full Plans show that key building safety risks are understood and will be managed, that robust processes are being put in place and that the design will meet all Building Regulations requirements	Start building work
3	Satisfy the JCA that the signed-off design has been followed (or that any changes since that point are properly verified and acceptable) and that the completed building has met all key building safety (and other Building Regulations) requirements, that all key documents have been handed over, and a resident engagement strategy is in place.	Start occupation

Recommendation 2.6

Government should ensure that there is thorough assessment by the JCA of detailed design plans for HRRBs and sufficient assurance that duty holders are in place and relevant responsibilities are being met in order to give permission for building work to legally commence. This should be in line with paragraphs 2.29-2.32. Full plans approval is the 2nd Gateway Point.

Recommendation 2.7

Government should ensure that:

- a. The JCA undertakes a thorough test of the duty holders’ as-built construction of HRRBs supported by clear documentary evidence from the Principal Contractor that the design intent has been delivered as proposed (and any changes are documented and justifiable) and that handover of the key golden thread information has occurred. This should be as set out in paragraphs 2.33 and 2.35; and
- b. The building owner must have completed a pre-occupation Fire Risk Assessment and resident engagement strategy. All of this must be signed off by the JCA (and a safety case review cycle established) to enable occupation to commence. The ‘Completion Certificate’ is the third Gateway Point.

Recommendation 2.8

Government should consider applying Gateway Points 2 and 3 to other multi occupancy residential buildings and to institutional residential buildings.

There are no overarching statutory requirements to report or record changes to previously agreed plans even where they will have an impact on the safety of a building.

There are currently around 20 different types of building work which, when done by 'competent persons' can be self certified, building control will not consider whether the work meets the requirements or not if the competent person is registered with a competent person scheme.

- There are incentives for building control competitors to attract business by offering minimal interventions or supportive interpretations to contractors
- Many building inspectors work in such an integrated fashion there is potential for conflict of interest
- There are disincentives for bodies to use enforcement methods for fear of losing business
- There is conflict of interest where building control is offered as part of a package e.g. including engineering support

Recommendation 2.9

a. there should be a clearer, statutory change control process that places requirements on the relevant dutyholder to notify the regulators of significant changes post-Full Plans sign-off. Within that context, two types of changes should be defined – 'major' and 'minor'.

- 'Major' changes would be a limited list of significant changes for example (a) changes in use, changes in number of storeys, changes in number of units or (b) changes which could impact on previously signed-off building safety plans. Major changes would require an update from the dutyholder to the JCA (for reconsideration) before such work is commenced.

- 'Minor' changes (i.e. all other changes) would need to be recorded and identifiable at the completion of the work for dutyholders to demonstrate that Building Regulations are still satisfied.

b. Government should consider also applying this change control process to other multi-occupancy residential buildings and to institutional residential buildings.

Recommendation 2.10

In HRRBs, building work that is carried out by 'persons in a competent persons scheme' should be subject to full oversight by the JCA to enable it to fully discharge its duties in line with paragraph 2.38-2.39

Recommendation 2.11

- a. It should not be possible for a client to choose their own regulator or for a regulator to be unable to apply sanctions against a duty holder where such action is warranted.
- b. As part of the JCA oversight of HRRBs there should be a single, streamlined, regulatory route for the provision of building control as set out within paragraphs 2.43-2.45 with oversight solely provided through LABC.
- c. The Approved Inspector regime should be utilised as such that it can
 - a. Provide accredited verification and consultancy services to duty holders; and also
 - b. Expand LABC's expertise/capacity (whilst always operating under LABC's rules and standards)
- d. But no AI can be used to provide both functions in respect of the same building work (i.e. regulatory oversight is provided the AI must be completely independent of duty holders)
- e. The avoidance of conflict of interest should apply to all actors in the regulatory system – so no fire and rescue should be able to support the JCA in its oversight of a particular building (i.e. the individual or company) has provided professional design services in respect of that building through its commercial arm
- f. Recommendations a, b and c should also apply to other multi occupancy buildings and to institutional residential buildings. Recommendations d and e should apply to all building work.
- g. LABC should be renamed the Local Authority Building Standards given their new role.

Recommendation 2.12

- a. As part of the establishment of the JCA, the fire and rescue authorities need to be engaged in a more consistent manner with a robust dispute resolution mechanism established for use by the organisations within it (as per paragraph 2.46).
- b. Comparable processes should also be adopted for other multi occupancy residential buildings and to institutional buildings where Local Authority Building Standards and fire and rescue authority will also need to interact to ensure building Regulation requirements are met.

Beyond this there needs to be clearer and stronger sanctions i.e. improvement/correction notices and prohibition notices which can be issued by the JCA/Local Authority Building Standards.

Failure to comply with either notice would be a criminal offence. Where there is a credible risk to occupants now or in the future there needs to be a move to replicate the full range of penalties assigned under the Health and Safety at Work Act.

Refurbishment

The recommendations in this section should be taken to apply to both new build and refurbishment. Existing buildings are not currently required to meet building regulations on building safety. Rather a set of complex legal provisions are applied where the work represents a 'material alteration'. There is no requirement to generally improve the fire safety provisions in the building, merely that the work should not make the building less compliant.

Recommendation 2.13

The sanctions and enforcement regime should be reinforced to that penalties are an effective deterrent against non-compliance. These stronger enforcement tools should generally look to replace and align with the approach in the Health and Safety at Work Act. More specifically:

- a. The JCA/LABS should have additional powers to issue formal Improvement and Prohibition (or 'stop') Notices to duty holders where there is a sufficient concern about, for example, the degree of oversight of the work; accurate record keeping; or the likelihood of meeting Building Regulations requirements;
- b. The JCA/LABS should have the clear power to require changes to work that fail to meet the Building Regulations requirements alongside any broader penalties sought;
- c. Time limits for bringing prosecutions should be increased to five or six years for 'major' deficiencies in building requirements identified at a later date;
- d. The JCA cost recovery model should be weighed appropriately to create a fund for enforcement action to be taken where needed; and
- e. The new powers should be available, wherever appropriate, to support either the JCA or Authority Building Standards in respect of non-compliant building work.

Recommendation 2.14

Where a HRRB has not yet had its first safety case review and seeks to carry out refurbishment work then this should trigger a full safety case review as set out in paragraphs 2.58-2.59.

Once the safety case review cycle is established then further major refurbishments may also bring forward the next safety case review.

The interim report found that the current regulatory system during occupation and maintenance is not fit for purpose in HRRBs, key drivers are:

- Overlapping regulatory frameworks
- Lack of expectation for building safety to be proactively maintained
- The difficulty of identifying a duty holder with responsibility for the structural and fire safety of the whole building

The interim report recommended as an interim measure that the fire risk assessment required under the Fire Safety Order should be undertaken at least annually when any significant alterations are made to the building. It also stated that fire risk assessments should be shared and accessible with residents and notified to the fire and rescue authority.

In the case of existing HRRBs there will need to be a prioritised programme devised by the JCA. There is no requirement buildings must meet current Building Regulations but there is an expectation for improvements to be made.

The responsible person is often not identified at the handover stage and they do not need to make themselves known to residents.

The review recommends the duty holder should demonstrate how they are reducing building safety risk as far as reasonably practicable (SFAIRP)

Recommendation 3.1

- a. Government should specify that responsibility for the safety of all parts of a HRRB must be held by a clear, senior duty holder which would be the building owner or superior landlord.
- b. The JCA and residents must be kept notified of the name and UK-based contact information of the duty holder (whether that is an entity or a named person)
- c. The duty holder must nominate a named 'Building Safety Manager' with relevant skills, knowledge and expertise to be responsible for the day-to-day management of the building and act as a point of contact for residents. The building safety manager's name and contact information must be notified to the JCA and to residents and should be displayed in the building.

It is clear the involvement of residents must be part of the new approach and the duty holder will be expected to develop and maintain a resident engagement strategy supporting the principles of transparency.

There needs to be a clear demonstration that risk mitigation is in place with sufficient layers in place to ensure building safety risk does not rely on one layer of protection.

It is noted that fire risk assessments are often viewed as a 'tick box exercise' without proper consideration for whether fire safety measures have been removed within flats, whether residents are aware of the fire safety measures and what the original design intent was in relation to fire safety.

The fire safety case file should include:

- A resident engagement strategy
- Maintained and updated fire and emergency file and digital record
- A copy of any fire safety inspections undertaken by the duty holder and regulator
- A copy of the latest fire risk assessment and evidence action has been undertaken.

Recommendation 3.2

Government should allocate clear responsibilities to duty holders of HRRBs to:

- a. Take such safety precautions as may reasonably be required to ensure building safety risk is reduced so far as it reasonably practicable.
- b. Ensure that information management systems are in place in order to maintain relevant documentation and compile and maintain a safety case file (see paragraph 3.34)
- c. Ensure that there is a resident engagement strategy and that residents receive information on fire safety in an accessible manner; and
- d. Handover all of the relevant information to a new duty holder when the building changes hands.

Recommendation 3.3

The duty holder for a HRRB should proactively demonstrate to the JCA through a safety case at regular intervals (as determined by level of risk) that they are discharging their responsibilities. The safety case must identify the hazards and risks, describe how risks are controlled, and describe the safety management system in place.

It is noted that the competence of an individual should not be mandated by government, instead it is the responsibility of the duty holder to assess the competence of the person/company they are appointing. It was recommended in the interim report that risk assessments should be undertaken at least annually and when any significant structural alterations are made. It is recommended that fire risk assessments are undertaken annually until the first fire safety case review and then as and when determined with the JCA on a risk basis.

Residents will be expected to cooperate with the duty holder so they are able to discharge their duties e.g. allowing access for maintenance and testing. All residents duties should extend to

- Cooperating with the duty holder to enable them to fulfil their duties
- Ensure that fire compartmentalisation in their flat/apartment is maintained to a suitable standard
- Ensure that any fire safety systems in the flat that could impact on the fire safety of the building are maintained and inspected (or access permitted)
- There should be an assumption that (where necessary) improvements are permitted in any lease in relation to building safety measures.

It is vital inspections are done in a coherent way with advance notice as to minimise disruption.

Recommendation 3.4

- a. The duty holder for a HRRB should demonstrate that the fire risk assessment for the whole building has been undertaken by someone with relevant skills, knowledge and experience and reviewed regularly (dependent on risk and as agreed with the regulator) so as to keep it up to date and particularly if:
 - a. There is a reason to suspect it is no longer valid
 - b. They have received a notice from a regulator
 - c. There has been a significant change to the premises
- b. The duty holder should ensure that any recommendations/requirements outlined in the fire risk assessment are undertaken and completed in a timely manner. Fire risk assessments should be reviewed at least annually until a first safety case review has been completed, where this applies.
- c. The government should consider applying this requirement to other multi-occupancy residential buildings

Neither of the current regulations (Fire Safety Order and the Housing Act) allow for a whole building. Fire Safety order applies to the common parts and any workplaces within. The Housing Act is enforced by EHOs and is enforced on a reactive basis with no ability to enforce against local authority housing and without a clear focus or access to specialised skills needed on complex fire safety matters.

Recommendation 3.5

- a. For HRRBs, residents (including those residing and landlord or lease holder of the flat) should have clear obligations in relation to maintaining safety of flats and should cooperate with the duty holder (or building safety manager) to the extent necessary to enable them to fulfil their duty to keep the building safe for all those living there.
- b. The duty holder should educate, influence and inspect to ensure residents meet these obligations and the JCA should be able to intervene where there is any immediate risks to persons.
- c. The government should consider applying this good practice on rights and responsibilities to other multi occupancy residential buildings.

Recommendation 3.6

The JCA should be empowered to regulate across all parts of a HRRB, to be clearly identifiable to duty holders and residents, and should have the following roles in occupation and maintenance phases

- a. Hold a register of duty holders
- b. Ensure that duty holders meet their responsibilities through effective inspection, assessment and enforcement; and
- c. Deal with immediate risk – the JCA should have powers of access to inspect the whole building and take action where necessary.

Recommendation 3.7

- a. For HRRBs, Environmental Health Officers should raise any fire and structural safety concerns to the JCA
- b. For other multi occupancy residential buildings, local authorities and fire and rescue authorities should work more closely to ensure that the fire safety of the whole building is assessed and regulated effectively.

The recommendations cover residents of all tenures so no voice is excluded. Residents voice is an area where the government are already considering policy change, this theme may also be addressed by the forthcoming Social Housing Green Paper.

A cultural change is required to rebuild trust and ensure residents feels safe in their homes again.

The outcome of the safety case and summary of the fire risk assessment should be translated into a 'safety rating' which will allow buildings to be benchmarked against others. The report should also include steps residents should take within their own homes to improve the rating.

Current good practice of consulting and involving residents in decisions is very limited and not replicated throughout all sectors, building owners and managers.

Recommendation 4.1

- a. The duty holder for a HRRB should have a statutory duty to proactively provide residents with a set of information that supports residents to understand the layers of protection in place to keep their building safe.
- b. The government should consider applying this requirement to other multi-occupancy residential buildings.

Recommendation 4.2

- a. Residents of HRRBs should have the right to access fire risk assessments, safety case documentation and information on maintenance and asset management that relates to the safety of their home
- b. The government should consider applying this requirement to other multi-occupancy residential buildings

Recommendation 4.3

- a. The duty holder for a HRRB should have a resident engagement strategy in place to support the principals of transparency of information and partnership with residents. The strategy should outline how the duty holder will share information with the residents, how they inform them of their rights and responsibilities, and how they involve residents in decision-making on changes to the building that could impact on safety.
- b. The government should consider applying this requirement to other multi occupancy residential buildings.

Currently it has been reported that residents do not know who to report to or how to do so. Some residents have lost confidence in those responsible for building safety.

When residents wish to replace a front door for example, they should ensure it is replaced with an appropriate fire door.

Communication, including explanation by the duty holder of the reasons for safety decisions and the requirement for certain safety measures, will ensure that residents understand the reasons for the obligations placed upon them.

Recommendation 4.4

- a. Government should provide funding for organisations working at both local and national level to provide advice. Guidance and support to residents, landlords and building owners on effective resident involvement and engagement in order to develop a national culture of engagement for residents of all tenure.
- b. This recommendation should not be limited to the residents of HRRBs- culture change for the residents of these buildings will only happen as part of a wider process change across the sector.

Recommendation 4.5

- a. After internal processes have been exhausted, if residents still have safety concerns about their homes there should be a clear and quick escalation and redress route available for residents of all tenures to an independent body with appropriate knowledge, resources and enforcement powers.
- b. This route of redress should be open to all residents of all tenures, and not limited to those living in HRRBs.

Recommendation 4.6

- a. The duty holder for a HRRB should provide residents with clear information about their obligations in relation to building and fire safety, and residents should meet their obligations to ensure their own safety and that of their neighbours.
- b. The government should consider applying this requirement to other multi occupancy residential buildings.

Competence

It is important that lessons have been learned in other sectors from tragic events. Every encouragement should be given to cross sector learning. There is a need to leaders in construction to reach out and learn form other industries. E.g. Piper Alpha 1988 and RAF Nimrod crash 2006.

Since the interim report the following professions have been identified as those whose work is essential for the fire safety of HRRBs

- Engineers
- Those installing and maintaining fire safety systems and other safety critical systems
- Fire engineers
- Fire risk assessors
- Fire safety enforcing officers
- Building control inspectors
- Building designers, including architects
- Building safety managers
- Supervision and project management
- Specialist bodies operating within the construction and fire safety sectors

As a minimum any body which accredits the competence in any trade or profession associated with the built environment should themselves be accredited by a rigorous publicly recognised and accepted by method of accreditation for example UKAS.

Recommendation 5.1

The construction sector and fire safety sector should:

- a. Demonstrate more effective leadership in relation to developing a responsible approach to delivering building safety and integrity;
- b. Work with other sectors to learn and translate good practice and implement it within the sector; and
- c. Develop continuous improvement approaches to competence levels

Recommendation 5.2

- a. The professional and accreditation bodies working within the construction and fire safety sectors should continue the work started in response to the interim report and present a coherent proposal to government within one year. As a minimum, this proposal should cover the role and remit of an overarching body to provide oversight of competence requirements and support the delivery of competent people working on HRRBs, including:
 - The professional bodies, professions and disciplines in scope
 - Its membership and governance
 - Its role in receiving, agreeing and monitoring the individual competence frameworks for those bodies, professions and disciplines in scope for individuals within their membership or on their register, and/or whether a single competence framework for professional bodies in scope should be reassessed and reaccredited
 - Its role in establishing a method for demonstrating or proving competence
 - How the correct balance between construction sector skills and fire safety skills should be balanced; and
 - Whether the competence requirements for those working on HRRBs should also be extended to cover other multi-occupancy residential buildings and to institutional residential buildings.
- b. Progress should be monitored by government, with the professional and accreditation bodies providing government with quarterly reports.
- c. If government does not consider that the proposed approach provides the necessary assurance to the JCS, or there is evidence that the fragmented approach to the oversight of competence will continue, then government should mandate a body to establish the competence levels required to oversee its implementation.

Recommendation 5.3

Relevant parties, along with the relevant professional bodies should

- a. Continue to work together to develop a common approach and competence framework which meets the requirements of the new regulatory framework and the new skills required of Building Standards Inspections when working on HRRBs, and those offering consultancy and verification to duty holders
- b. This framework should apply to all Building Standards Inspectors whether they are LABS Inspectors or part of the JCA or AIs offering their services to Building Standards or duty holders.
- c. Consider whether these competence requirements for Building Standards Inspectors working on HRRBs, and AIs, should also be extended to cover those working on other multi occupancy residential buildings and institutional residential buildings.

Recommendation 5.4

Relevant parties should work together, along with the relevant professional bodies, to develop and define a robust, comprehensive and coherent system for:

- a. The competence requirements for the role of building safety manager of HRRBs; and
- b. The remit of this role in introducing and overseeing the process by which residents in HRRBs would be able to access fire safety awareness training

Guidance and Monitoring to Support Building Safety

The review heard that those undertaking building work often do not have a clear understanding of their roles and responsibilities and the standard they are expected to achieve. This is partly caused by the complex, inconsistent and ambiguous way in which guidance is written. This enables a situation where some treat the minimum standards in Approved Documents as a high bar to be negotiated down.

The interim report concluded that it is not solely for government to write guidance and suggested that a balanced approach with significant input and ownership from industry is more effective.

Recommendation 6.1

- a. Government should work towards a long term aim that guidance is to be owned by industry, while government sets out regulatory requirements and provides oversight of the regulatory system.
- b. Government should reserve the right to create guidance if industry has not been proven that it is able or is deemed unable to produce suitable guidance.

Recommendation 6.2

- a. The government should create a new structure to validate and assure guidance, oversee the performance of the built environment sector and provide expert advice.
- b. There should be a periodic review (at least every five years) of the effectiveness of the overall system of building regulation including accountabilities, responsibilities, guidance and the effectiveness of the regulator.

Recommendation 6.3

The government should take forward the recommendations made by the Expert Group in Appendix F. To Summarise these are:

- a. Clear user friendly language and formatting of the guidance (including Approved Document B);
- b. Multiple points of entry for different users to the document set, to provide clear advice for different types of building work;
- c. Facilitate the prioritisation of fire and structural safety while encouraging a holistic approach that considers all building safety objectives; and
- d. A building regulation manual to explain the role of the Approved Documents.

The term 'desktop study' has commonly been used as an assessment in lieu of test with respect to insulation and cladding systems. The interim report set out recommendations to significantly reduce the use of assessments in order to ensure they are only used in an appropriate and responsible way by a competent person. Since the interim report government accepted this recommendation and made a commitment to 'revise the Approved Documents on fire safety and commission work to produce a new British Standard on when and how such assessments can be used'.

In relation to the testing of cladding materials there is currently a choice between using products of limited combustibility or undergoing a full system test. Using products which are non-combustible or of limited combustibility is undoubtedly the lower risk option. In the new regulatory framework set out by this review the greater focus required on key safety aspects from the outset means that the use of lower risk materials would be likely to receive approval by the JCA as a robust layer of protection.

Not only does the person choosing the system ensure that the full system is tested but they will also need to ensure that the potential risks are mitigated by ensuring the system is properly installed and maintained through its life cycle, which creates an ongoing more onerous responsibility beyond supply and installation.

As a minimum manufacturers should ensure the limitations of a product and how it cannot be used in a system are declared, and that limitation advice is adhered to. This will ensure there is limited scope for substitution of products.

The scope and information provided in testing needs to be simpler, non technical and consistent to ensure information is accessible and readily understandable. (Links back to 'Golden Thread' information).

Recommendation 7.1

- a. A clearer, more transparent and effective specification and testing regime of construction products must be developed. This should include products as they are put together as part of a system.
- b. Clear statements on what products can and cannot be used for should be developed and their use made essential. This should ensure significantly reduced scope for substitution of any products used in a system without further full testing. Until such time manufacturers should ensure that they adhere to the current limitations set out in classification reports in the current regime.
- c. The scope of testing, the application of products in systems, and the resulting implications must be more clearly communicated in plain, consistent, non-technical language.

Recommendation 7.2

- a. Manufacturers must retest products that are critical to the safety of HRRBs at least every 3 years. Manufactures should consider the need to rest more frequently, focusing especially on the testing of products as they operate in systems rather than individual elements.
- b. The testing of products that are critical to the safety of HRRBs should be subject to independent third part certification.
- c. The introduction of the JCA should drive the introduction of reactive testing when particular issues of concern arise regarding products installed that are critical to the safety of HRRBs.
- d. Additional test houses should be established and certified.
- e. All test houses should produce an annual report providing summary details of tests carried out and the number of passes and failures reported.

Recommendation 7.3

- a. A simpler, more streamlined set of standards relating to the testing of products used in HRRBs, and the health and safety of people in and around those buildings, needs to be developed. This should ensure that where new standards are required, these are identified quickly and in the case of conflicting standards that these are identified and reviewed.

Recommendation 7.4

- a. Test methods and standards should be maintained under a periodic review process in order to drive continuous improvement and higher performance through the development of new test methods, and encourage innovative product and system design under better quality control.

Recommendation 7.5

- a. The construction products industry should work together to develop and agree a consistent labelling and traceability system, making use of the digital technologies that are already available and learning from other sectors.
- b. The duty holder for any given HRRB should ensure that the documentation that supports the performance claims for products and system incorporated within the HRRB should be maintained throughout the life cycle of the building through the golden thread of building information.

Recommendation 7.6

- a. Government should ensure that there is a more effective enforcement, complaint investigation and market surveillance regime with national oversight to cover construction product safety.
- b. Government should consider whether this could be achieved by extending the remit of the Office for Product Safety and Standards.
- c. The introduction of national level market surveillance should drive the introduction of risk-based testing of products that are critical to the safety of HRRBs.

The lack of complete, accurate and maintained building information causes a number of challenges:

- It is unclear whether any changes have been made between original design and the completion of construction which may have an impact on the building safety strategy.
- The building owner does not have the required up-to-date information to be able to easily and effectively manage building safety across its life cycle.
- When refurbishing, it will be difficult to ascertain what effects any changes may have on building safety.

Recommendation 8.1

- a. Government should mandate a digital (by default) standard of record keeping for the design, construction and during the occupation of the new HRRBs. This is to include any subsequent refurbishments within those buildings.
- b. Digital records are to be in a format which is appropriately open and non-proprietary with proportionate security controls.

Recommendation 8.2

- a. Government should work with industry to agree what information must be held within the digital record for new HRRBs.

Recommendation 8.3

- a. Government should work with industry to agree the type of information to be collected and maintained digitally (by default) to enable the safe building management of existing HRRBs.
- b. Duty holders must identify and record where gaps in the above information exist and the strategy for updating that relevant information.

Recommendation 8.4

- a. Duty holders must hold, transfer and update information throughout the life cycle of the HRRB.
- b. Information from this record is to be provided to the JCA in the event that this may be required.

The aim of the procurement process should be to obtain best value, rather than lowest cost. Clients should be aiming to construct buildings that have a long life cycle.

Payment terms within contracts can drive poor behaviours in the relationships between the client, the contractor and the designer. For example the low margin for larger contractors sometimes leads them to push technical and contractual risk down to subcontractors. This leads to risk being handled by those who are unable to mitigate risks appropriately and drives inefficiency in building contracts.

Recommendation 9.1

- a. For HRRBs principal contractors and clients should devise contracts that specifically state that safety requirements must not be compromised for cost reduction.
- b. The government should consider applying this requirement to other multi occupancy residential buildings and to institutional residential buildings,

Recommendation 9.2

- a. For HRRBs, tenders should set out how the solution that is proposed will produce safe building outcomes, approaching the building as a system. Those procuring should use the tender review process to test whether this is the case.
- b. The government should consider applying this requirement to other multi occupancy residential buildings and to institutional buildings.

Recommendation 9.3

For HRRBs the information in the contracting documentation relating to the safety aspects should be included in the digital record set out in Chapter 8.

International Examples

International evidence points to the need for wide culture change, requiring an intelligent client to interact with an intelligent regulator.

Regulatory frameworks are often rooted in historical events and local practices, as such they cannot be easily transferred from one jurisdiction to another. Identifying best practice is important. There is much to be learned from work being undertaken across the globe as a result of the Grenfell tower fire – for example ongoing reviews of building regulations in Scotland and Australia.

Recommendation 10.1

The government should re-join the inter-jurisdictional Regulatory Collaboration Committee (IRCC).

2.29

The 'Full Plans Approval' process should be the second Gateway Point. It should be radically strengthened to become a thorough assessment of the safety case for the whole building. These plans would sit alongside the new duty holder requirements for robust record-keeping and change control processes. It should drive a culture change where duty holders apply more rigour and upfront investment in detailed plans before building work actually commences.

2.30

Informal engagement between dutyholders and the JCA should begin before this Gateway Point begins. However, this should be the point at which the Principal Designer is formally required to present the JCA with Full Plans. This should include dutyholders providing detailed specifications of building works in respect of fire and structural safety as a minimum (alongside the necessary specification in all other aspects of the Building Regulations). This will need to be in an appropriate and accessible format in order for formal consideration to start. This will require a more rigorous and investigatory skill set than is currently required from those responsible for building control. Such plans will need to satisfy the JCA that the layers of protection for that building ensure that risks are reduced so far as is reasonably practicable in the key safety areas. More generally, the plans will also need to show compliance with all aspects of the Building Regulations. The JCA needs to minimise unnecessary delays in this process to ensure safe building work can be signed off as promptly as possible.

2.31

Only once those plans are fully considered and approved by the JCA (with building control leading) will dutyholders have authority to start building work. There would be appropriate sanctions for dutyholders' starting building work without clearance – see Part 5 of this chapter. This strengthening will better embed building safety at an early stage by:

- incentivising early and substantial communication between dutyholders and the JCA well before Full Plans are formally submitted (enabling proper oversight at an early stage in the design process before design weaknesses are more difficult to reverse);
- requiring dutyholders to explain in detail their proposed design and their approach to construction before work commences in a way that is standard across other industries;
- requiring dutyholders to show the building work is/will continue to be managed effectively with proper oversight, record keeping and change control processes in place;
- stimulating fewer changes/better change control during construction;
- enabling the JCA to determine its risk-based inspection regime during construction in light of the quality of the case that is presented at

this stage.

2.32

This approach will also help to ensure that, where design and build and value engineering are employed, their use cannot compromise key safety aspects and the overall integrity of the proposed design

2.33

The Completion stage (i.e. completion of building work) should be the third Gateway Point. It should be radically strengthened to become a more thorough test of as-built construction work which must be assessed by the JCA and permission granted to enable occupation to commence. As such the Principal Designer and Principal Contractor should be required to present the JCA with sufficient records of the final buildings in the right form to enable a full assessment of building safety (and all other relevant requirements). The client will also need to confirm that relevant Building Regulations requirements are met and the building is therefore safe. Dutyholders will also need to present proper records and a justification for all changes made since Full Plans sign-off.

2.34

This approach will better embed building safety as the transition into occupation occurs. It will ensure that the JCA can fully assess the final building and hold dutyholders to account to ensure they fully demonstrate that they understand the risks created and how they have managed those risks, in particular, since they were given approval to proceed to the construction phase (at Gateway Point 2)

2.35

This Gateway Point will also ensure that the future building owner receives the key golden thread information products, linking the design and construction and the occupation and maintenance phases together. To facilitate this, the future building owner will need to be identified at this point as part of the golden thread process and will need to complete a pre-occupation Fire Risk Assessment based on the Fire and Emergency File that is ready for occupation as well as a resident engagement strategy to support the principles of transparency of information and partnership with residents (see Chapter 4 for more details).

2.36

In addition, the government should apply Gateway Points 2 and 3 to other buildings where members of the public may be at risk of a fire safety incident. In particular, it would be sensible to apply this to other buildings where many people live and sleep and where the need for a heightened focus on fire safety is most necessary.

2.43

It is important that regulatory oversight of these buildings is done in a manner which is completely independent of clients, designers and contractors and that enforcement can and does take place where that is necessary. Put another way, the ability for dutyholders to choose their own regulator must stop and regulators must be able to enforce as regulators. To address the weaknesses identified in paragraph 2.41 the review therefore proposes a model that:

- ensures the right regulator is in place rather than allowing dutyholders to choose who checks the quality of their work based, potentially, on lowest price and least intervention;
- ensures a clear, single regulatory route for oversight of HRRBs through Local Authority Building Control. This removes complexity by ensuring that only a single set of building control processes is applied by the JCA, based around the statutory Gateway Points and change control processes;
- ensures that the necessary risk-based site inspection regime can be put in place in between Gateway Points without concern that this will cause regulators to lose business;
- removes some of the current disincentives for LABCs to use their sanctions and enforcement toolkit (by removing the risk that long-term business will be lost as a result of robust application of existing law);
- continues to utilise the very valuable contributions made by Approved Inspectors.

2.44

This will change the way in which AIs are appointed and some of their remit but does not completely change the way in which they operate. They now have a choice for individual jobs to either:

- provide accredited consultancy and verification services to dutyholders to help them meet their new responsibilities and navigate the key Gateway Points with the JCA. There would clearly be an incentive for dutyholders to engage AIs in such a process as this would provide additional assurance to the JCA that proper building safety is being prioritised in the design and construction process; or
- provide extra capacity/expertise to the JCA/LABC where needed in any particular locality (although where utilised LABCs would retain oversight and their processes would be followed). No AI could provide consultancy/verification services to dutyholders and regulatory oversight through LABCs in respect of the same building. Local Authorities run many services where they buy in expertise from the private sector and they could choose to appoint AIs if that was necessary too.

2.45

As a final part of this process, Local Authority Building Control should be newly branded as 'Local Authority Building Standards' given their re-focused role in overseeing standards and dutyholders' key responsibilities during design and construction.

2.46

The way in which LABCs currently interact with the fire and rescue authority, should also be improved as part of the new JCA arrangements. In order to maximise the effectiveness of the more frequent engagement at key Gateway Points, this regulatory relationship needs to become more effective. In particular, key fire safety information needs to be shared in a much more effective manner than now (for example, we understand that some fire and rescue authorities still do not accept electronic transfers of information). Fire and rescue authorities should also have the explicit ability to delay JCA clearance at any Gateway Point if the information provided by the dutyholder does not enable them to undertake a proper assessment. A new dispute resolution process needs to be created as part of the JCA to handle any differences in opinion between fire and rescue authorities and Local Authority Building Standards around the possible amendment/rejection of dutyholder plans.

2.58

Chapter 3 sets out the primary route way for the JCA to drive improvements in the existing building stock through the new 'safety case review' system. This review recommends a system in which dutyholders identify the hazards and risks, describe how risks are controlled and describe the safety management system in place. Dutyholders will need to demonstrate to the JCA how they are reducing building safety risk so far as is reasonably practicable. This approach takes into account the changes that might be reasonable to make to the building taking account of the level of risk and the cost.

2.59

The safety case review is much broader-reaching than adjustments to the current non-worsening provisions could be. Therefore, where a HRRB has not yet had its first safety case review and seeks to carry out refurbishment work then this will trigger that broader process. The safety case review will then look at the whole building and agree where works need to be undertaken (in addition to the proposed refurbishment work) and set appropriate timescales. Such work would always count as building work and therefore be overseen by Local Authority Building Standards (and fire and rescue authority) on behalf of the JCA. Once the safety case review cycle is established then further major refurbishments may also bring forward the next safety case review

3.34

The safety case file should include:

- information on the building management system in relation to fire and structural safety, records of maintenance, inspection and testing undertaken on the structure and services and evidence that the competence of those undertaking work on the building was sufficient;
- a resident engagement strategy;
- the maintained and updated Fire and Emergency File (see Appendix D) and digital record (see Chapter 8);
- a copy of any fire safety inspections undertaken by the dutyholder and/or regulator; and
- a copy of the latest fire risk assessment and evidence of actions taken and the appropriate competence of the person who performed it.