

Building a Safer Future – Proposals for reform of the building safety regulatory system

Southend-on-Sea Borough Council and South Essex Homes

Joint Response to Consultation

Chapter 2 – Stronger requirements for multi-occupied high-rise residential buildings

Q1.1	Do you agree/ that the new regime should go beyond Dame Judith’s recommendation and initially apply to multi-occupied residential buildings of 18 metres or more (approximately 6 storeys)? Please support your view.
	<i>Yes as there are substantial fire risks associated with a multi-occupied residential building of 18m or higher particularly where these have a single escape staircase. In order to make the regime clearer to residents the description could be based upon number of floors/storeys. We would also suggest that certain high risk residential buildings such as HMOs, hostels and residential care homes should also come under the regime, regardless of height, if they have more than a specified number of residents. This is particularly the case if their evacuation plan relies on a single escape staircase.</i>
Q1.2	How can we provide clarity in the regulatory framework to ensure fire safety risks are managed holistically in multi-occupied residential buildings?
	<i>Local authorities are best placed to co-ordinate the regulatory framework and ensure a holistic approach at a local level as they bring together the various regulatory functions. This could be based on a similar model to Community Safety Partnerships with the Fire and Rescue Service and others engaged on this body.</i>
Q1.3	If both regimes are to continue to apply, how can they be improved to complement each other?
	<i>Clearly define all roles and responsibilities and ensure the language and terminology used in all regulations and/or guidance is clear and consistent.</i>
Q1.4	What are the key factors that should inform whether some or all non-residential buildings which have higher fire rates should be subject to the new regulatory arrangements during the design and construction phase? Please support your view.
	<i>Substantial risks are also present in other buildings where people sleep and other buildings such as entertainment venues (clubs/pubs) where occupant’s decision making process may be impaired and places of assembly where risks can be increased and occupants are slower to respond. The Council’s safety of sports ground work highlights the significant oversight required by the local authority to ensure public safety during the occupation of a premises; there are many examples of where the necessary works would not have been carried out at the sports ground, had it not been for the oversight by our local authority.</i>

Q1.5	Linked to your answer above, which of the ‘higher-risk workplaces’ in paragraph 42 would you consider to be higher-risk during the design and construction phase?
	<i>The definition of a ‘high risk workplace’ for buildings such as halls of residence and sheltered housing could lead to confusion as a large number of people would consider these residential. We would suggest that any building of over 18m where multiple people sleep should be brought within the remit of the new regulatory framework including hospitals, sheltered accommodation, hotels and student accommodation. However, as per our response to Q1.4 certain other high risk buildings could also be brought within the regulatory framework in the future.</i>
Q1.6	Please support your answer above, including whether there are any particular types of buildings within these broad categories that you are particularly concerned about from a fire and structural perspective?
	<i>Any building over 18m where people sleep, or particularly where their response to an incident could be impaired, will be of increased fire risk.</i>
Q1.7	On what basis should we determine whether some or all categories of supported/sheltered housing should be subject to the regulatory arrangements that we propose to introduce during the occupation stage? Please support your view.
	<i>Supported housing and, in particular, sheltered schemes, are traditionally occupied by elderly persons who, during their time within the scheme, can see their health deteriorate. We are also seeing more people with varying levels of mental and physical disability living within them. Whilst these buildings may not be high rise they are still high risk. Using an assessment based upon number of residents could be an appropriate way forward.</i>
Q1.8	Where there are two or more persons responsible for different parts of the building under separate legislation, how should we ensure fire safety of a whole building in mixed use?
	<i>There should be a single named person who is responsible for the building in occupation. See answer to Q2.3 below</i>

Chapter 3 – A new dutyholder regime for residential buildings of 18 metres or more

Part A - Dutyholder roles and responsibilities in design and construction

Q2.1	Do you agree that the duties set out in paragraphs 61 to 65 are the right ones?
	Yes

Q2.2	Are there any additional duties which we should place on dutyholders? Please list.
	<i>No</i>
Q2.3	Do you consider that a named individual, where the dutyholder is a legal entity, should be identifiable as responsible for building safety? Please support your view.
	<i>Yes. The Council's work under the Building Safety Programme highlighted how difficult it was to identify the owners of high rise residential buildings (e.g. registered to an address in the Channel Islands), so naming a dutyholder will address this.</i>
Q2.4	Do you agree with the approach outlined in paragraph 66, that we should use Construction (Design and Management) Regulations 2015 (CDM) as a model for developing dutyholder responsibilities under building regulations? Please support your view.
	<i>Yes</i>
Q2.5	Do you agree that fire and rescue authorities should become statutory consultees for buildings in scope at the planning permission stage? If yes, how can we ensure that their views are adequately considered? If no, what alternative mechanism could be used to ensure that fire service access issues are considered before designs are finalised?
	<i>It is logical for the fire service to be consulted at the planning stage and it should stop/reduce the risk of a building obtaining planning permission for something that does not comply with the Building Regulations. Planning Officers do not have the appropriate technical knowledge to review a consultation response, but they could be supported by the local authority building control team.</i>
Q2.6	Do you agree that planning applicants must submit a Fire Statement as part of their planning application? If yes, are there other issues that it should cover? If no, please support your view including whether there are alternative ways to ensure fire service access is considered.
	<i>Yes, we agree that a Fire Statement should be submitted as part of the planning application. However, this should go significantly beyond service vehicle access and access to water supplies. Other issues should include compartmentation strategy (including external cladding details), means of escape and fire suppressant (where appropriate). There have been examples (such as a school building) where fire safety and means of escape had not been fully considered by the designers, so planning permission was granted for a building that then had to go back to planning when an additional (external) staircase was required to ensure building regulation compliance.</i>

Q2.7	Do you agree that fire and rescue authorities should be consulted on applications for developments within the 'near vicinity' of buildings in scope? If so, should the 'near vicinity' be defined as 50m, 100m, 150m or other. Please support your view.
	<i>Yes and we would support a 150m radius as buildings within this area could affect or be affected by the building within scope.</i>
Q2.8	What kind of developments should be considered? <ul style="list-style-type: none"> • All developments within the defined radius, • All developments within the defined radius, with the exception of single dwellings, • Only developments which the local planning authority considers could compromise access to the building(s) in scope, • Other.
	<i>All developments within the defined radius.</i>
Q2.9	Should the planning applicant be given the status of a Client at gateway one? If yes, should they be responsible for the Fire Statement? Please support your view.
	<i>Yes, there needs to be an identified person from the beginning that should carry through until completion and occupation.</i>
Q2.10	Would early engagement on fire safety and structural issues with the building safety regulator prior to gateway two be useful? Please support your view.
	<i>Yes as this is the start of the 'golden thread'. The earlier that fire safety can be brought into the process, and the potential risks assessed, the better chance there is that risks will be mitigated and/or removed.</i>
Q2.11	Is planning permission the most appropriate mechanism for ensuring developers consider fire and structural risks before they finalise the design of their building? If not, are there alternative mechanisms to achieve this objective?
	<i>Yes, local authorities are well placed and will ensure a record is kept and passed onto the Regulator.</i>
Q2.12	Do you agree that the information at paragraph 89 is the right information to require as part of gateway two? Please support your view.
	<i>Whilst we agree with the information it is unlikely that such a full design package will be available at this stage for large projects, particularly those being procured under a Design and Build route. Indeed, this is recognised at Paragraph 94.</i>
Q2.13	Are these the appropriate dutyholders to provide each form of information listed at paragraph 89?
	<i>Yes</i>

Q2.14	Should the Client be required to coordinate this information (on behalf of the Principal Designer and Principal Contractor) and submit it as a package, rather than each dutyholder submit information separately?
	<i>All of the documentation set out in a to c would normally be submitted by the Principal Designer on behalf of the Client. This should continue in this process. The Construction Control Plan is submitted by the Principal Contractor and this responsibility and accountability should remain with the Principal Contractor.</i>
Q2.15	Do you agree that there should be a 'hard stop' where construction cannot begin without permission to proceed? Please support your view.
	<i>Yes as if changes are required and construction has commenced this could be both problematic and expensive. It should also lead to safer buildings. However, it should also be recognised that this is a major change to the current system and is likely to add time to the construction programme.</i>
Q2.16	Should the building safety regulator have the discretion to allow a staged approach to submitting key information in certain circumstances to avoid additional burdens? Please support your view.
	<i>As noted in our response to Q2.12 this will clearly be necessary in large complex builds. However, it should only be agreed if the Fire and Emergency File has been agreed and signed off including the base means of escape strategy.</i>
Q2.17	Do you agree that it should be possible to require work carried out without approval to be pulled down or removed during inspections to check building regulations compliance? Please support your view.
	<i>Yes provided is it reasonable and proportionate with appropriate justification as many passive fire protection measures would not be visible for inspection.</i>
Q2.18	Should the building safety regulator be able to prohibit building work from progressing unless non-compliant work is first remedied? Please support your view.
	<i>Yes, otherwise issues with non-compliant work may be compounded provided that this action is justified and is reasonable and commensurate with the issue.</i>
Q2.19	Should the building safety regulator be required to respond to gateway two submissions within a particular timescale? If so, what is an appropriate timescale?
	<i>Yes, using the same timescale as currently in place for Full Plans approval would be sensible although a system such as that followed for the planning application validation process would be required to ensure all information is submitted before the timescale for determination commences.</i>
Q2.20	Are there any circumstances where we might need to prescribe the building safety regulator's ability to extend these timescales? If so, please provide examples.
	<i>Yes, if incomplete information is submitted or there are particularly complex issues. The latter would need to be in agreement with the applicant.</i>
Q2.21	Do you agree that the Principal Contractor should be required to consult the Client and Principal Designer on changes to plans?
	Yes

Q2.22	Do you agree that the Principal Contractor should notify the building safety regulator of proposed major changes that could compromise fire and structural safety for approval before carrying out the relevant work?
	<i>Yes, the approach will not work if this is not in place.</i>
Q2.23	What definitions could we use for major or minor changes? <ul style="list-style-type: none"> • Any design change that would impact on the fire strategy or structural design of the building; • Changes in use, for all or part of the building; • Changes in the number of storeys, number of units, or number of staircase cores (including provision of fire-fighting lifts); • Changes to the lines of fire compartmentation (or to the construction used to achieve fire compartmentation); • Variations from the design standards being used; • Changes to the active/passive fire systems in the building; • Other – please specify.
	<i>We would suggest not using the definition minor or major. All of the above should constitute a material change.</i>
Q2.24	Should the building safety regulator be required to respond to notifications of major changes proposed by the dutyholder during the construction phase within a particular timescale? If yes, what is an appropriate timescale?
	<i>Nominally an eight week period should suffice but the regulator could agree a longer timescale for complex alterations.</i>
Q2.25	What are the circumstances where the Government might need to prescribe the building safety regulator's ability to extend these timescales?
	<i>See response to Q2.24</i>
Q2.26	Do you agree that a final declaration should be produced by the Principal Contractor with the Principal Designer to confirm that the building complies with building regulations? Please support your view.
	<i>We agree with this approach as both the Principal Contractor and Principal Designer are central to the process.</i>
Q2.27	Should the building safety regulator be required to respond to gateway three submissions within a particular timescale? If so, what is an appropriate timescale?
	<i>Yes although it should be noted that this will add time to the construction/handover phase. A period of four weeks would seem reasonable.</i>
Q2.28	Are there any circumstances where we might need to prescribe the building safety regulator's ability to extend these timescales? If so, please support your view with examples.
	<i>Yes, when this is deemed appropriate due to the complexity of the build and in consultation with the applicant.</i>
Q2.29	Do you agree that the accountable person must apply to register and meet additional requirements (if necessary) before occupation of the building can commence? Please support your view.
	<i>Yes in order to ensure all safety concerns have been addressed. This should run in parallel with the Gateway Three sign off.</i>

Q2.30	Should it be an offence for the accountable person to allow a building to be occupied before they have been granted a registration for that building? Please support your view.
	<i>Yes to ensure all safety issues have been addressed.</i>
Q2.31	Do you agree that under certain circumstances partial occupation should be allowed? If yes, please support your view with examples of where you think partial occupation should be permitted.
	<i>This should only be allowed where it has been established from the outset based on sectional completions to ensure all fire safety and other systems are operating appropriately.</i>
Q2.32	Do you agree with the proposal for refurbished buildings? Please support your view
	<i>Yes, this seems a reasonable and commensurate approach.</i>
Q2.33	Do you agree with the approach to transitional arrangements for gateways? If not, please support your view or suggest a better approach?
	<i>Yes</i>

Chapter 3 – A new dutyholder regime for residential buildings of 18 metres or more

Part B – Duties in occupation

Q3.1	Do you agree that a safety case should be subject to scrutiny by the building safety regulator before a building safety certificate is issued? Please support your view.
	<i>Yes as this will ensure safety is a core part of the building management process.</i>
Q3.2	Do you agree with our proposed content for safety cases? If not, what other information should be included in the safety case?
	<i>Yes</i>
Q3.3	Do you agree that this is a reasonable approach for assessing the risks on an ongoing basis? If not, please support your view or suggest a better approach.
	<i>Yes</i>
Q3.4	Which options should we explore, and why, to mitigate the costs to residents of crucial safety works?
	<i>Where urgent, safety-critical work is identified as being required the apportionment of cost must be a secondary consideration to getting the safety works completed. The works should initially be undertaken by the landlord with cost apportionment then considered. Options could include interest free loans and RSL grants. The Government could also consider VAT treatment of works.</i>
Q3.5	Do you agree with the proposed approach in identifying the accountable person? Please support your view.
	<i>Yes as control of the building is essential to provide the ability to undertake works and gain access. However, a single named contact person should also be named within the accountable body.</i>
Q3.6	Are there specific examples of building ownership and management arrangements where it might be difficult to apply the concept of an accountable person? If yes, please provide examples of such arrangements and how these difficulties could be overcome.
	<i>Yes, large multi-use buildings particular where there are a mix of use classes including residential, commercial and leisure. A single body should be named as accountable for the entire structure.</i>
Q3.7	Do you agree that the accountable person requirement should be introduced for existing residential buildings as well as for new residential buildings? Please support your view.
	<i>Yes as the level of existing building stock significantly outnumbers new build and these buildings are likely to have undergone substantial alteration during their life.</i>
Q3.8	Do you agree that only the building safety regulator should be able to transfer the building safety certificate from one person/entity to another? Please support your view.
	<i>Yes as this is central to ensuring records of responsibility and accountability are maintained and up to date.</i>

Q3.9	Do you agree with the proposed duties and functions of the building safety manager? Please support your view.
	<i>Yes, although if the building safety manager is an organisation it is unclear how they would demonstrate competence.</i>
Q3.10	Do you agree with the suitability requirements of the building safety manager? Please support your view.
	<i>Yes, although there will be a period of training and 'competence proving' to ensure appropriate individuals are in place.</i>
Q3.11	Is the proposed relationship between the accountable person and the building safety manager sufficiently clear? Please support your view.
	<i>Yes, the responsibilities appear well set out in principle although these will need to be reviewed and assessed regularly during the implementation period.</i>
Q3.12	Do you agree with the circumstances outlined in which the building safety regulator must appoint a building safety manager for a building? Please support your view.
	<i>Yes, these 'step in' arrangements look reasonable provided a suitable period has been allowed for the existing building safety manager role to be addressed where shortcomings have been identified.</i>
Q3.13	Do you think there are any other circumstances in which the building safety regulator must appoint a building safety manager for a building? Please support your view with examples.
	<i>No</i>
Q3.14	Under those circumstances, how long do you think a building safety manager should be appointed for?
	<i>Until such time as the accountable person has demonstrated that they have put in place a suitable building safety manager role.</i>
Q3.15	Under what circumstances should the appointment be ended?
	<i>Once the accountable person has demonstrated that they have put in place a suitable building safety manager role.</i>
Q3.16	Under those circumstances, how do you think the costs of the building safety manager should be met? Please support your view.
	<i>They should be charged to the accountable person.</i>
Q3.17	Do you agree that this registration scheme involving the issue of a building safety certificate is an effective way to provide this assurance and transparency? If not, please support your view and explain what other approach may be more effective.
	<i>Yes</i>
Q3.18	Do you agree with the principles set out in paragraphs 180 and 181 for the process of applying for and obtaining registration?
	<i>Yes</i>
Q3.19	Do you agree with the suggested approach in paragraph 183, that the building safety certificate should apply to the whole building? Please support your view.
	<i>Yes as this is the only way to ensure the building's systems are appropriate and maintained. The Fire Safety Order may require amending to reflect this approach.</i>

Q3.20	Do you agree with the types of conditions that could be attached to the building safety certificate? Please support your view.
	<i>Yes, the mandatory conditions cover the main areas and the ability to add voluntary and/or special conditions enable building-specific or other issues to be identified and included.</i>
Q3.21	Do you agree with the proposals outlined for the duration of building safety certificates? If not, please support your view.
	<i>Yes, although it should be revised if any works are undertaken which affect the fire safety of the building. These should be the same circumstances listed against question 2.23.</i>
Q3.22	Do you agree with the proposed circumstances under which the building safety regulator may decide to review the certificate? If not, what evidential threshold should trigger a review?
	<i>Yes, although any request from an interested party or occupant must provide reasonable justification and evidence as to why they believe a review is necessary.</i>

Chapter 3 – A new dutyholder regime for residential buildings of 18 metres or more

Part C – Duties that run throughout a building’s life cycle

Q4.1	Should the Government mandate Building Information Modelling (BIM) standards for any of the following types and stages of buildings in scope of the new system? a) New buildings in the design and construction stage, please support your view. b) New buildings in the occupation stage, please support your view. c) Existing buildings in the occupation stage, please support your view.
	<i>BIM is a very effective tool to assist in building management but can also be expensive. It is reasonable to expect its use for new buildings in the design and construction stage. However, it would be costly for existing buildings and these costs would be transferred to tenants. An agreed phased approach to its introduction could be appropriate.</i>
Q4.2	Are there any standards or protocols other than Building Information Modelling (BIM) that Government should consider for the golden thread? Please support your view.
	<i>No</i>
Q4.3	Are there other areas of information that should be included in the key dataset in order to ensure its purpose is met? Please support your view.
	<i>No</i>
Q4.4	Do you agree that the key dataset for all buildings in scope should be made open and publicly available? If not, please support your view.
	<i>Yes</i>
Q4.5	Do you agree with the proposals relating to the availability and accessibility of the golden thread? If not, please support your view.
	<i>Yes</i>

Q4.6	Is there any additional information, besides that required at the gateway points, that should be included in the golden thread in the design and construction stage? If yes, please provide detail on the additional information you think should be included.
	<i>No</i>
Q4.7	Are there any specific aspects of handover of digital building information that are currently unclear and that could be facilitated by clearer guidance? If yes, please provide details on the additional information you think should be clearer.
	<i>No</i>
Q4.8	Is there any additional information that should make up the golden thread in occupation? If yes, please provide detail on the additional information you think should be included.
	<i>No</i>
Q4.9	Do you agree that the Client, Principal Designer, Principal Contractor, and accountable person during occupation should have a responsibility to establish reporting systems and report occurrences to the building safety regulator? If not, please support your view.
	<i>Yes</i>
Q4.10	Do you think a 'just culture' is necessary for an effective system of mandatory occurrence reporting? If yes, what do you think (i) Industry (ii) Government can do to help cultivate a 'just culture'? Please support your view.
	<i>Yes</i>
Q4.11	Do you agree that, where an occurrence has been identified, dutyholders must report this to the building safety regulator within 72 hours? If not, what should the timeframe for reporting to the building safety regulator be?
	<i>Yes</i>
Q4.12	Do you agree that the scope of mandatory occurrence reporting should cover fire and structural safety concerns? If not, are there any other concerns that should be included over the longer term?
	<i>Yes</i>
Q4.13	Do you agree that mandatory occurrence reporting should be based on the categories of fire and structural safety concern reports identified in the prescriptive list in paragraph 222? Please support your view
	<i>Yes although they should be a material defect. For example, a fire door that is one millimetre outside tolerance for its drop down smoke seal or a single telecommunications cable that has not been appropriately fire stopped should not result in a report.</i>
Q4.14	Do you have any suggestions for additional categories? Please list and support your view.
	<i>No</i>
Q4.15	Do you think the proposed system of mandatory occurrence reporting will work during the design stage of a building? If yes, please provide suggestions of occurrences that could be reported during the design stage of a building.
	<i>Yes, if there are areas that contradict safety principles or where statutory consultee advice is not being taken on board.</i>

Q4.16	Do you agree that the building safety regulator should be made a prescribed person under Public Interest Disclosure Act 1998 (PIDA)? If not, please support your view.
	<i>Yes</i>
Q4.17	Do you agree that the enhanced competence requirements for these key roles should be developed and maintained through a national framework, for example as a new British Standard or PAS? Please support your view.
	<i>Yes, a national framework that underpins this standard should be put in place. Initially we are concerned that there will be an industry shortage of suitably trained and accredited people.</i>
Q4.18	Should one of the building safety regulator's statutory objectives be framed to 'promote building safety and the safety of persons in and around the building'? Please support your view.
	<i>We agree with this statement for the regulator.</i>
Q4.19	Should dutyholders throughout the building life cycle be under a general duty to promote building safety and the safety of persons in and around the building? Please support your view.
	<i>This could be read as giving dutyholders responsibility for areas outside of their control. A better description would be 'in and within the curtilage of the building'.</i>
Q4.20	Should we apply dutyholder roles and the responsibility for compliance with building regulations to all building work or to some other subset of building work? Please support your view.
	<i>Yes, as this would provide a consistent approach to all elements of work on an 'in scope' building.</i>

Chapter 4 - Residents at the heart of a new regulatory system

Q5.1	Do you agree that the list of information in paragraph 253 should be proactively provided to residents? If not, should different information be provided, or if you have a view on the best format, please provide examples.
	<i>We agree with the list of information. This should be supplied in written form at point of occupation and could also be made available through a central electronic portal.</i>
Q5.2	Do you agree with the approach proposed for the culture of openness and exemptions to the openness of building information to residents? If not, do you think different information should be provided? Please provide examples.
	<i>We agree as this should provide reassurance to residents and enable them to constructively challenge, where appropriate, based upon factual and up-to-date information.</i>

Q5.3	<p>Should a nominated person who is a non-resident be able to request information on behalf of a vulnerable person who lives there? If you answered Yes, who should that nominated person be?</p> <p>a) Relative, b) Carer, c) Person with Lasting Power of Attorney, d) Court-appointed Deputy, e) Other (please specify).</p>
	<p><i>Yes and there is no reason why all of the information set out in Paragraph 258 should not be made publicly available as it does not contain any personal data. Ideally all of this information should be made available via a suitable website.</i></p>
Q5.4	<p>Do you agree with the proposed set of requirements for the management summary? Please support your view.</p>
	<p><i>Yes although there appears some overlap with the content of the Resident Engagement Strategy. Could these effectively be combined into a single document where the first chapter (management summary) is common to all of a building safety manager's stock and the second chapter, whilst following a common format, be specific to individual buildings?</i></p>
Q5.5	<p>Do you agree with the proposed set of requirements for the engagement plan? Please support your view.</p>
	<p><i>Yes although there appears some overlap with the content of the Resident Engagement Strategy. Could these effectively be combined into a single document where the first chapter (management summary) is common to all of a building safety manager's stock and the second chapter, whilst following a common format, be specific to individual buildings?</i></p>
Q5.6	<p>Do you think there should be a new requirement on residents of buildings in scope to co-operate with the accountable person (and the building safety manager) to allow them to fulfil their duties in the new regime? Please support your view.</p>
	<p><i>We strongly agree. In practice it can be challenging to access individual properties, which would inhibit the accountable person and/or building safety manager from fulfilling their obligations. Resident support and engagement will be essential to enabling the building safety manager to undertake their duties. This could be underpinned with a similar regime to that used to undertake gas safe certificates (i.e. magistrate's warrants) although any approach would need to be efficient both in terms of time and cost.</i></p>
Q5.7	<p>What specific requirements, if any, do you think would be appropriate? Please support your view.</p>
	<p><i>As set out in response to Q5.6.</i></p>

Q5.8	If a new requirement for residents to co-operate with the accountable person and/or building safety manager was introduced, do you think safeguards would be needed to protect residents' rights? If yes, what do you think these safeguards could include?
	<i>This may not be necessary in renter accommodation as most tenancy conditions include a clause to enable access but residents' rights to quiet enjoyment are also enshrined in housing law. For leasehold properties there will need to be clear reasons allowing the BSM access for fire safety purposes (for example to check installations) included in the lease agreement. This will also need to be included in existing leases.</i>
Q5.9	Do you agree with the proposed requirements for the accountable person's internal process for raising safety concerns? Please support your view.
	<i>We agree with the general approach and would suggest that this could follow a similar approach to that used by the Social Housing Regulator including the definition of 'serious detriment'. Other complaints could follow similar approach to that used in the Local Authority Sector with the complaint ultimately escalating to the Fire Safety regulator as opposed to the LA Ombudsman.</i>
Q5.10	Do you agree to our proposal for an escalation route for fire and structural safety concerns that accountable persons have not resolved via their internal process? If not, how should unresolved concerns be escalated and actioned quickly and effectively?
	<i>We agree with the escalation route proposed.</i>
Q5.11	Do you agree that there should be a duty to cooperate as set out in paragraph 290 to support the system of escalation and redress? If yes, please provide your views on how it might work. If no, please let us know what steps would work to make sure that different parts of the system work well together.
	<i>We agree that there should be a duty to cooperate as it would be more straightforward for the complainant to know that their complaint would be directed to the appropriate body without having to understand a complex system. The system should not rely on a body against whom a complaint has been made to escalate it. A system could be based upon the existing local authority (ombudsman) system or that used by the Social Housing Regulator.</i>

Chapter 5 - A more effective regulatory and accountability framework for buildings

Q6.1	Should the periodic review of the regulatory system be carried out every five years/less frequently? If less frequently, please provide an alternative time-frame and support your view
	<i>We agree that this is a reasonable period for review AFTER an effective implementation period during which review of effectiveness should be undertaken more frequently.</i>

Q6.2	Do you agree that regulatory and oversight functions at paragraph 315 are the right functions for a new building safety regulator to undertake to enable us to achieve our aim of ensuring buildings are safe? If not, please support your view on what changes should be made.
	<i>The Hackitt Report repeatedly referred to the role of Local Authority Building Control as the ‘third pillar’ in the Joint Competent Authority. This implied that the inspection and local enforcing role of JCA for buildings in scope would be undertaken by LABC with the Fire and Rescue Service also taking a leading role. Paragraph 315 DOES NOT take such a perspective and implies that approved inspectors could be involved in the inspection of buildings in scope and signing off gateways and safety cases. We do not believe that this would establish the regulatory independence needed for this process and would be contrary to Dame Judith Hackitt’s recommendations. Impartiality and independence MUST lie at the heart of the new system of regulation and inspection. This can only be achieved by removing commercial interest from the process.</i>
Q6.3	Do you agree that some or all of the national building safety regulator functions should be delivered ahead of legislation, either by the Joint Regulators Group or by an existing national regulator? Please support your view.
	<i>Yes, provided that this is delivered with appropriate resource and by individuals with the necessary technical and statutory knowledge. As noted in our response to question 6.2 this consultation appears to have watered down Dame Judith Hackitt’s JCA approach by continuing to imply competition for the inspector role based, often, upon the lowest bidder. LABC can provide this resource at the local level and are best placed to provide the inspection and safety case review role. This should be addressed in any final proposal.</i>
Q7.1	Government agrees with the Competence Steering Group’s recommendations for an overarching competence framework, formalised as part of a suite of national standards (e.g. British Standard or PAS). Do you agree with this proposal? Please support your view.
	<i>Yes as a standardised competency framework is the best method of ensuring consistency across the sector.</i>
Q7.2	Government agrees with the Competence Steering Group’s recommendations for establishing an industry-led committee to drive competence. Do you agree with this proposal? Please support your view.
	<i>Yes, this works in other areas and we recognise that the national LABC has been engaged in the process.</i>
Q7.3	Do you agree with the proposed functions of the committee that are set out in paragraph 331? Please support your view.
	<i>Yes, in principle, although more work is required on the competence of work undertaken within existing buildings in scope. This will need to cover, for example, the work of telecommunications installers who, in our experience, regularly undertake works that potentially could compromise compartmentation.</i>
Q7.4	Do you agree that there should be an interim committee to take forward this work as described in paragraph 332? If so, who should establish the committee? Please support your view.
	<i>Any approach put in place must involve appropriate experts in this field of work.</i>

Q8.1	Do you agree with the approach of an 'inventory list' to identify relevant construction products to be captured by the proposed new regulatory regime? Please support your view.
	<i>We agree provided that the Inventory list is effectively reviewed and managed as this should make procurement and product specification more straightforward. However, the approach must recognise the role of sub-components and the relationship between components, for example, in complex systems such as cladding.</i>
Q8.2	Do you agree that an 'inventory list' should begin with including those constructions products with standards advised in Approved Documents? Please support your view.
	<i>Yes but this should be led by suitable qualified technical experts to ensure a pragmatic perspective is taken and that all products that need to be within the inventory list are included. At present a number of products specifications are outside the regulations despite them being a key component in the overall build.</i>
Q8.3	Are there any other specific construction products that should be included in the 'inventory list'? Please list.
	<i>Please refer to our response to Q8.2.</i>
Q8.4	Do you agree with the proposed approach to requirements for construction products caught within the new regulatory regime? Please support your view.
	<i>Yes although independent testing must recognise, and take account of, on site installation factors.</i>
Q8.5	Are there further requirements you think should be included? If yes, please provide examples.
	<i>Please refer to our response to Q8.4.</i>
Q8.6	Do you agree with the proposed functions of a national regulator for construction products? Please support your view.
	<i>We agree as this should provide consistency and clarity.</i>
Q8.7	Do you agree construction product regulators have a role in ensuring modern methods of construction meet required standards? Please support your view.
	<i>We agree as they will be best placed to understand the role of new method of construction.</i>
Q8.8	Do you agree that construction product regulators have a role in ensuring modern methods of construction are used safely? Please support your view.
	<i>We agree as they will be best placed to understand the use and implementation of new methods of construction.</i>
Q8.9	Do you agree with the powers and duties set out in paragraph 350 to be taken forward by a national regulator for construction products? Please support your view.
	<i>Yes, although there will need to be effective communication with the Building Safety Regulator.</i>
Q8.10	Are there other requirements for the umbrella minimum standard that should be considered? If yes, please support your view.
	<i>The standard should also consider effective maintenance regimes and not just focus on performance at the date of installation as it is often poor maintenance that can lead to performance being compromised.</i>

Q8.11	Do you agree with the proposed requirements in paragraph 354 for the umbrella minimum standard? If not, what challenges are associated with them?
	<i>We agree.</i>
Q8.12	Do you agree with the proposal for the recognition of third-party certification schemes in building regulations? Please support your view.
	<i>We agree as this, in theory, would lead to a level of independent assurance. However, it needs to be recognised that work can often be compromised by subsequent trades that could either remove or damage installation particularly in relation to passive fire protection measures.</i>
Q8.13	Do you agree that third-party schemes should have minimum standards? Please support your view.
	<i>Yes as this would provide a level of consistency and assurance.</i>
Q8.14	Are there any benefits to third-party schemes having minimum standards? Please support your view.
	<i>Yes, the provision of minimum standards ensures accountability and provides the client with assurance.</i>
Q8.15	Are there challenges to third-party schemes having minimum standards? Please support your view.
	<i>Potentially industry will push for lowered minimum standards to meet their commercial interests. Fire safety standards must be set at an agreed level by independent assessors with the regulator confirming these levels.</i>

Chapter 6 - Enforcement, compliance and sanctions

Q9.1	Do you agree with the principles set out in the three-step process above as an effective method for addressing non-compliance by dutyholders/accountable persons within the new system?
	<i>We believe there are more effective models such as those used by local authorities that would provide a focus on processes that are intended to get work put right and projects moving forward on site safely.</i>
Q9.2	Do you agree we should introduce criminal offences for: (i) an accountable person failing to register a building; (ii) an accountable person or building safety manager failing to comply with building safety conditions; and (iii) dutyholders carrying out work without the necessary gateway permission?
	<i>We agree.</i>
Q9.3	Do you agree that the sanctions regime under Constructions Products Regulations SI 2013 should be applied to a broader range of products? Please support your view.
	<i>We agree as they should apply to all products that could compromise fire or structural safety.</i>

Q9.4	Do you agree that an enhanced civil penalty regime should be available under the new building safety regulatory framework to address non-compliance with building safety requirements as a potential alternative to criminal prosecution? Please support your view.
	<i>We agree that civil penalty will often be a more appropriate response than criminal prosecution.</i>
Q9.5	Do you agree that formal enforcement powers to correct noncompliant work should start from the time the serious defect was discovered? Please support your view.
	<i>Yes although a period needs to be given to correct non-compliant work.</i>
Q9.6	Do you agree that we should extend the limits in the Building Act 1984 for taking enforcement action (including prosecution)? If agree, should the limits be six or ten years?
	<i>This could be aligned with latent defects periods for standard works contracts. In JCT this would be 6 years for signed contracts and 12 years for sealed contracts.</i>