



Ministry of Housing,
Communities &
Local Government

Building a Safer Future

Proposals for reform of the building safety regulatory system

A consultation



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Scope of the consultation

Topic of this consultation:	This consultation seeks views on new building safety measures.
Scope of this consultation:	This consultation follows on from the Government's Implementation Plan published in December 2018 which set out how we intend to take forward the recommendations from Dame Judith Hackitt's Independent Review of Building Regulations and Fire Safety.
Geographical scope:	These proposals relate to England only. The UK Government will be discussing construction products with devolved administrations where existing legislation has scope outside England.
Impact Assessment:	The Analytical Annex at A sets out the expected impacts (costs and benefits) of proposals in this consultation. Where the proposals taken forward require legislative changes further assessments will need to be made, and these will need to reflect the outcome of the consultation and responses.

Basic Information

Duration:	This consultation will last for 8 weeks from 6 June 2019 until 31 July 2019.
Enquiries:	For any enquiries about the consultation please contact buildingsafetyconsultation@communities.gov.uk
How to respond:	<p>We encourage you to respond by completing an online survey at: https://www.surveymonkey.co.uk/r/BuildingSafetyConsultation</p> <p>Alternatively, you can email your response to the questions in this consultation to: buildingsafetyconsultation@communities.gov.uk</p> <p>If you are responding in writing, please make it clear which questions you are responding to.</p> <p>Written responses should be sent to: Building Safety Bill Team, Ministry of Housing Communities and Local Government, 4th Floor, Fry Building, 2 Marsham Street, London SW1P 4DF.</p> <p>When you reply it would be very useful if you confirm whether you are replying as an individual or submitting an official</p>

	<p>response on behalf of an organisation and include:</p> <ul style="list-style-type: none">• Your name,• Your position (if applicable),• The name of organisation (if applicable),• An address (including post-code),• An e-mail address.
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Ministerial foreword

The tragedy at Grenfell Tower in June 2017 shattered the lives of countless people in the place where they should feel most safe: their home. Despite years of decline in incidents, injuries and fatalities from fires in our homes, the tragedy rocked confidence in the nation's building safety system.

To ensure nothing like Grenfell can ever happen again, we took committed action in the aftermath of the fire. We established the Building Safety Programme. The programme has been working across all the sectors to identify and remediate buildings with unsafe Aluminium Composite Material (ACM) cladding – this essential work is ongoing.

We also commissioned the Independent Review of Building Regulations and Fire Safety, led by Dame Judith Hackitt. Dame Judith's report concluded that the current system for ensuring fire safety in high-rise buildings was not fit for purpose and recommended a full overhaul. The Government has accepted all 53 of her recommendations. Moreover, in some areas we intend to go further.

This consultation seeks views on our proposals for a radically new building and fire safety system which puts resident's safety at its heart. These comprehensive changes will work in conjunction with other improvements we are making, such as those outlined in the Social Housing Green Paper and reforms in the leasehold and private rented sectors. We are seeking comment on five broad areas of our proposals.

First, the scope of the regime. We have outlined a regime that covers all multi-occupied residential buildings of 18 metres or more, going further than Dame Judith's recommendations

Second, we have detailed the concept of dutyholders: those with a clear responsibility throughout design, construction and occupation of an in-scope building. Dutyholders will be required to demonstrate a building's safety through a new system of gateway points during design and construction, and through a safety case regime during its occupation.

Third, we are requesting views on proposals to give residents a stronger voice in the system – and ensure their concerns are never ignored. We propose guaranteeing the provision of better information to residents on their buildings, and better engagement to help them participate in decisions about safety. Moreover, we want to provide them with clear and quick routes of escalation if things do go wrong.

Fourth, we have outlined plans for a new building safety regulator to provide oversight of the new building safety regulatory regime. This regulator will also oversee the wider building and regulatory system and watch over efforts to assure the competence of those working on buildings. We are also proposing to strengthen the oversight and regulation of construction products.

Finally, the proposed system will be underpinned by strengthened enforcement and sanctions to deter non-compliance with the new regime. We believe that this will help drive real culture change in the industry.

We have worked closely with the Home Office to develop the proposals within the consultation and will continue to do so. I am grateful to the Home Secretary and the Policing and Fire Minister for their support.

We welcome views on these proposals and encourage residents, building owners, the construction industry and the fire sector to all make their voices heard. It is essential that we work together to restore confidence in the nation's building safety system, so we can make residents safe, and feel safe, in their homes.



The Rt Hon James Brokenshire MP
Secretary of State for Housing, Communities and Local Government

Executive Summary

This consultation builds on the recommendations from Dame Judith Hackitt's Independent Review of Building Regulations and Fire Safety¹ (the Independent Review) and proposes fundamental reform of building safety requirements so that residents are safe, and feel safe, in their homes.

Need for action

The Grenfell Tower fire represents the greatest loss of life in a residential fire in a century. It shattered the lives of many people and shook the trust of countless more in a system that was intended to ensure the most basic human need of having a decent and safe place to live.

The Independent Review found that the system was not fit for purpose, leaving room for those who wish to take short-cuts to do so, and set out recommendations to establish a new building safety regulatory framework and achieve culture change to build and maintain safe buildings. The work of the Independent Expert Advisory Panel² and Industry Response Group³ to advise on the immediate measures required to identify and remediate buildings of concern also found that both cultural and systemic change were necessary, exposing profound problems with the way high-rise residential buildings are constructed, managed and regulated.

We have actively sought views from residents of blocks of flats and other buildings through a Residents' Reference Panel⁴, through focus groups on residents' feelings of safety, and through extensive engagement on the Social Housing Green Paper⁵. We have heard that many have lost trust in the current system and we need to act to overhaul how buildings are built and kept safe into the future.

The Government accepted the findings of the Independent Review and published an Implementation Plan⁶ in December 2018 which set out how we intend to take forward the Independent Review's recommendations. This consultation document details our proposals to achieve this long-term system reform.

Immediate response

Following the Grenfell Tower fire, the Government worked with fire and rescue authorities to take immediate action to identify buildings with unsafe Aluminium Composite Material (ACM) cladding and make them safe through short-term mitigation measures and longer-term remediation. In addition, fire and rescue authorities have provided fire safety and prevention information to thousands of residents in other high-rise buildings without ACM cladding through their regular risk-

¹ <https://www.gov.uk/government/collections/independent-review-of-building-regulations-and-fire-safety-hackitt-review>

² Advises the Secretary of State on immediate safety measures needed to ensure building safety.

³ Provide advice on potential solutions to safety issues, including access to technical expertise and to communicate issues to industry and mobilise them to respond

⁴ The Residents' Reference Panel is a focus group of residents of higher risk Residential Buildings who have met quarterly to discuss policy proposals with MHCLG officials

⁵ <https://www.gov.uk/government/news/social-housing-green-paper-a-new-deal-for-social-housing>

⁶ <https://www.gov.uk/government/publications/building-a-safer-future-an-implementation-plan>

based inspection programmes, and in some cases as part of specialised high-rise taskforces set up after the Grenfell Tower fire.

While most of the reforms proposed in this consultation would require primary legislation to be implemented, the Government has already acted to make changes to improve the safety of the existing high-rise housing stock and new builds. This includes testing and providing clear advice and funding for the remediation of ACM cladding on existing higher risk residential buildings, laying regulations to implement a clear ban on combustible cladding for new higher risk homes⁷ and providing advice to building owners to support them in addressing a number of wider building safety issues that have come to light. Further details of our action to date is set out in Chapter 1.

Our wider housing and consumer reform programme

The proposals in this consultation are part of our broader ambition to build better quality homes for the future and to empower residents to expect and demand safe and well-designed homes and be able to hold those responsible for their building to account when things go wrong.

We are taking action across the housing market to support those living in social housing, the private rented sector, leaseholders and other home buyers and owners by improving and simplifying access to redress schemes and driving out unfair practices.

The Grenfell Tower fire exposed major questions about the way we manage and view social housing in this country and the deal we offer residents in that sector, and Government promised a fundamental review. Through the Social Housing Green Paper, we set out proposals to ensure that social homes are safe and decent and that residents are treated with dignity and respect. To do this we are rebalancing the relationship between landlords and tenants, empowering residents and ensuring their voices are heard. A robust social housing regulatory framework is essential to ensuring tenants get a fair deal, especially when they have less choice over their landlord. We announced in the Green Paper that we would undertake a review of social housing regulation to ensure it is fit for purpose and will underpin our ambition to deliver major reform to tenants' experience. We will ensure that the review of social housing regulation recognises and reflects the changes we are making in light of the Independent Review and that the social housing and building safety regulators work together to maintain clear lines of accountability that serve residents' interests.

We are also driving up design standards through reforms to the National Planning Policy Framework, the strengthening of guidance and encouraging a step change in design quality through programmes such as the Garden Towns and Villages programme. We have also asked the Building Better, Building Beautiful Commission to recommend how we can promote better design for new homes, and how new settlements can be developed with greater community consent. Our safety reforms are designed to be proportionate to the risks that come with more complex buildings, but we are taking care to ensure that our legislative framework facilitates and does not hamper a step-change increase in the supply of new homes. Building better and safer homes is in all our long-term interests.

⁷ The ban applies to new buildings over 18 metres containing flats, as well as new hospitals, residential care premises, dormitories in boarding schools and student accommodation over that height.

To improve the safety of all residential buildings, the Government has commissioned a review of the Housing Health and Safety Rating System (HHSRS). Local authorities use the HHSRS to assess health and safety in residential properties, so the review will ensure that they are using their existing Housing Act powers effectively. The HHSRS also forms part of the Decent Homes Standard, which is a minimum standard council and housing association properties should meet.

The Home Office is also issuing today, alongside this document, a call for evidence⁸ on the Regulatory Reform (Fire Safety Order) 2005 (the 'Fire Safety Order'). This seeks views from the fire safety sector, those it regulates and enforcing authorities on the current effectiveness and application of the Fire Safety Order to provide a regulatory framework for the ongoing management of fire safety in non-domestic premises and the common parts of multi-occupied residential buildings.

Both the Housing Act 2004 and the Fire Safety Order look to ensure risks are appropriately managed in multi-occupied residences but the Independent Review identified some gaps and inconsistencies between them. We need to understand further the specific risks posed in multi-occupied residential buildings and Houses in Multiple Occupation (HMOs), and the best way to regulate them. We will use our review of the Housing Health and Safety Rating System and the call for evidence on the Fire Safety Order to identify any additional measures we should introduce.

Proposals for a stronger system to assure building safety

This document builds on our Implementation Plan, setting out more detail on how we propose to implement and legislate for these reforms. It also sets out questions on which we welcome views.

The main themes of the reforms Dame Judith recommended were to:

- Create a more effective regulatory and accountability framework to provide greater oversight of the industry;
- Introduce clearer standards and guidance, including establishing a new Standards Committee to advise on construction product and system standards and regulations;
- Put residents at the heart of the new system of building safety, empowering them with more effective routes for engagement and redress;
- Help to create a culture change and a more responsible building industry, from design, through to construction and management.

Chapter 1 sets out progress to date, including the immediate action taken, to increase building safety and the work being done to improve the experience for residents beyond high-rise homes and building safety.

Chapter 2 discusses the buildings we propose to bring into scope at the outset of the new regime, going further than Dame Judith's proposal to start with all higher risk residential buildings over 30 metres (or around 10 storeys) in height to include multi-occupied residential buildings of 18 metres (6 storeys) or more.

Our guiding principle is to apply more proportionate rigour to buildings that have the potential for catastrophic incidents that could cause multiple fatalities. It is our

⁸ <https://www.gov.uk/government/consultations/the-regulatory-reform-fire-safety-order-2005-call-for-evidence>

intention to design the regime so that, over time, additional buildings – for example where vulnerable people sleep – may be brought into scope on the basis of further work to understand risk profiles that apply to different categories of buildings.

The Home Office's call for evidence also seeks views on whether relevant reforms proposed for multi-occupied residential buildings of 18 metres or more should be applied to higher risk workplaces under the Fire Safety Order.

Chapter 3 describes our proposals for system reform with new, responsible dutyholders who have robust duties across the whole life cycle of a building in scope – from design to demolition. It is presented in three parts:

- Part A - Duties in design and construction,
- Part B - Duties in occupation, and
- Part C - Duties that run throughout a building's life cycle.

Part A sets out our proposals for the dutyholder regime which would operate in the design and construction phase to place much greater responsibility on those designing and constructing buildings in scope to demonstrate how they are managing safety risks.

- **A new, more stringent approach to accountability over the life span of the buildings in scope** with a clear set of 'dutyholders' involved in the design, build and ongoing management of these buildings – five during the design and construction phases, and one during the occupation and management phase. This will implement the principle that the person or entity who creates a building safety risk should be responsible for managing that risk and provide reassurance to residents.
- **For the design, build and refurbishment phases**, the five **dutyholder roles** we propose align with the existing roles identified under the Construction (Design and Management) Regulations 2015: Client, Principal Designer, Principal Contractor, Designer, Contractor.
- These **dutyholders will have new, clear and robust requirements** to ensure building safety through compliance with the building regulations; planning, monitoring and managing building work so as to promote building safety; demonstrating that they themselves are competent and employ competent people, producing a **safety case** demonstrating that they are taking actions to reduce building safety risks so far as is reasonably practicable.
- Dutyholders will also have to demonstrate how they are actively managing risks through the safety case approach at a series of **new gateway points** before they can proceed to the next stage of development:
 - Gateway 1 – Before planning permission is granted. This gateway would apply to all multi-occupied residential buildings of 30 metres or more and require the applicant to submit a 'Fire Statement' with their planning application, and the local planning authority to consult the fire and rescue authority before granting planning permission, to ensure early consideration of fire safety.

- Gateway 2 – Before construction begins. This gateway would apply to all buildings in scope and require dutyholders to demonstrate how they comply with building regulations by providing full plans and supporting documentation.
- Gateway 3 – Before occupation begins. This gateway would apply to all buildings in scope and require the dutyholders to hand over building safety information about the final, as built building before occupation is permitted. The Client must as a minimum apply for and receive a provisional registration of the building and assure the building safety regulator that building risks have been assessed and arrangements are in place for the building to be operated safely during the occupation phase.
- Getting it right from the start will help developers to avoid delays and additional costs preventing them from embedding inappropriate design details that subsequently have to be put right and will incentivise them to ensure safety is central to their approach.

Part B details our proposals for a new building safety regime when higher risk residential buildings are occupied. The Independent Review found that under the existing system it is not always clear who is responsible for keeping a building safe, and critical fire and structural safety risks are not always identified or dealt with as they should be. These proposals clarify responsibility and introduce a much more rigorous approach to assessment of risk and remediation.

- **During occupation, we propose the introduction of a new ‘accountable person’** who would be the dutyholder legally responsible for ensuring that building fire and structural safety risks are reduced so far as is reasonably practicable. The accountable person must register their building(s) with the building safety regulator, comply with the requirements of a **building safety certificate** issued by that regulator and carry out, provide to the regulator and comply with a **safety case** demonstrating how they have reduced risk.
- The accountable person must also name a competent **building safety manager** and provide them with access to funding necessary to carry out their functions. The building safety manager will support the accountable person by carrying out the day to day functions of ensuring that the building is safely managed and will promote the openness, trust and collaboration with residents that is fundamental to keeping buildings safe. However, accountability under the building safety certificate remains with the accountable person.

Part C sets out duties that run throughout a building in scope’s life cycle to support the specific system reforms detailed in the design and construction and occupation phases.

- We propose that a **safety case approach** should be taken throughout the lifecycle of a building in scope. At all stages of design, build and occupation there should be someone responsible for managing and mitigating fire and structural risks.

- During a building's design and construction phase the 'case for safety' will be made by the developer when they go through the gateways. During these stages, the developer will have to gather together evidence at that point of the building's lifecycle to demonstrate to the building safety regulator how they are ensuring that fire and structural risks to the building are assessed and mitigated through the way that the building is designed and constructed.
- For the occupation phase, the building safety regulator in deciding whether to issue a building safety certificate will assess the safety case and attach conditions to the registration certificate to ensure identified building safety risks are mitigated. The safety case will be periodically reviewed by that regulator during the occupation phase to ensure that risks are being actively managed and mitigated on an ongoing basis whilst the building is in use. In cases where it is difficult to produce a full set of information for an existing building, the accountable person would need to evidence the reasonable steps they have taken to collect information or take mitigating action.
- We propose that a **golden thread** of building information is created, maintained and held digitally to ensure that the original design intent and any subsequent changes to the building are captured, preserved and used to support safety improvements. In addition, we propose that a key dataset, a sub-set of building information held in a specified format, is required as part of the golden thread. This will enable the building safety regulator to analyse data across all buildings in scope.
- We aim to implement a system of **mandatory occurrence reporting** to the building safety regulator, where the Client, Principal Designer, Principal Contractor and accountable person must establish systems to facilitate reporting of fire and structural safety issues by workers. We propose that to complement this, workers should be afforded **whistle-blower protections** when reporting formal concerns to the building safety regulator about illegal wrongdoing.
- We are also **supporting the expansion** of the existing system of Confidential Reporting on Structural Safety (CROSS) to cover fire engineering safety concerns on all buildings, alongside their current operating system on structural safety issues. These reporting systems will be crucial to build trust in the new building safety regulatory system, to develop a safety-focused culture in the sector, to better understand safety risks and issues and will lead, ultimately, to safer buildings. The new system would require that all dutyholders ensure that those they appoint have the necessary skills, knowledge and expertise to discharge their functions effectively, and assure that they themselves are suitably competent. We are therefore seeking views on industry proposals for an **overarching system for overseeing competence requirements** for those working on buildings in scope of the new regime, and in particular the competence required for the Principal Designer, Principal Contractor and the building safety manager as pivotal roles requiring an additional set of skills in relation to their overarching role to ensure that the design intent of the building is maintained and that workers employed and used in design, construction, refurbishment, maintenance and operation are suitably competent.

- **Going beyond the recommendations of the Independent Review, we are also considering introducing a statutory objective** for all those involved to promote building safety and the safety of people in and about buildings. Such a statutory objective could help ensure that all those with an interest in a building's safety are working to a common objective and are focused on the things that matter to residents' safety.

Chapter 4 describes how we intend to empower residents within a new building safety system with residents at its heart. It is vital that the views and concerns of residents can never be ignored by those responsible for managing the safety of their buildings. These proposals will give residents a stronger voice and better information in order to be empowered in decisions about safety and in holding those responsible to account.

- We propose that the accountable person (through the building safety manager) must **proactively provide residents with the information they need** so that they understand the protections that are in place to keep their building safe; provide residents with more detailed information on building and fire safety on request; and proactively engage with residents through developing and implementing a **Resident Engagement Strategy**.
- In recognition of the crucial role residents play in supporting the accountable person to meet their responsibilities, and the responses received to our recent call for evidence on how residents and landlords work together, we are also asking whether there should be a requirement for residents to cooperate with the accountable person to keep the building safe.
- The accountable person must also maintain a transparent internal complaints process to address residents' concerns about fire and structural safety, with residents being able to use a **clear and quick route of escalation** to the building safety regulator if their concerns are not dealt with effectively.

Chapter 5 sets out how we propose to ensure robust oversight of the building safety and wider regulatory system, developing the Independent Review's recommendations by proposing a new **building safety regulator** with broad functions. This chapter also describes the proposals from the industry-led Competence Steering Group on oversight of competence of those working on buildings in scope of the new regime. The proposals on construction products will be developed to ensure consistency of performance and safety of residents, and will take account of, and interact with, future international relationships. These proposals cover products used in buildings and civil engineering projects.

- We propose establishing a single building safety regulator that would have responsibility, at a national level, for oversight of the building safety and wider building regulatory system, oversight of the new regulatory regime for buildings in scope of the new regime and oversight of work to drive increased competence of professions and trades working on buildings.
- We are seeking views on the Competence Steering Group's proposals for an industry committee comprising relevant industry bodies, independent experts, building owners and residents to be established with specified functions to

drive competence. This is part of industry's proposal for an overarching system for oversight of competence.

- In addition, we propose strengthening the oversight and regulation of construction products to make manufacturers' responsibilities clearer; and increase market surveillance and oversight, including through a national complaints system; and extend and strengthen independent assurance schemes.
- We also propose introducing an independent periodic review of the overall building regulation system.

Chapter 6 details our proposals to improve compliance and strengthen enforcement and sanctions within the new building safety regulatory system framework. The Independent Review highlighted that the lack of enforcement action by current regulators provided little deterrence against non-compliance. We propose driving real culture change by both incentivising behaviours that maximise compliance with the new regime and having **a tougher building safety regulatory framework**, under which there will be greater powers and more opportunities for intervention through **credible and effective enforcement and sanction powers**. More specifically we are proposing a three-step process whereby the building safety regulator achieves this through:

- **Reinforcement of operating standards and provision of professional guidance** through seeking to achieve compliance by informally working with the dutyholders/accountable persons, evidencing its intervention.
- **Proactive intervention and monitoring**, where the above collaboration approach fails to achieve the desired outcome, or where the building safety regulator determines that the offence in question warrants more serious action, it will stage interventions to secure compliance. Generally, this could be through taking action such as (but not limited to) issuing stop notices or improvement notices.
- **Enforcement action**, where first two stages fail to achieve compliance, the building safety regulator moves to take enforcement action against dutyholders/accountable persons. This may be through formal orders, penalties, or by reviewing the building safety certificate which may, ultimately, lead to revocation. The building safety regulator may also decide to prosecute the dutyholders/accountable persons.

Commitment to ongoing improvement

These fundamental reforms will overhaul the current system, but our aim is to create a system that is also able to respond effectively to future changes in the built environment, technological advances and the recommendations of the Grenfell Tower Public Inquiry.

For example, we believe the new regime should be able to target a wider range of buildings should the risk demonstrate a real need. The Government wants to ensure that the regime is flexible enough to expand over time if needed. The proposed registration and ongoing safety case regime is designed to ensure that buildings in

scope of the new regime are managed and maintained to a high level on an ongoing basis. The periodic review of the building regulation system would also provide a regular trigger for system improvements.

We have already started a programme of work to review building regulations guidance (the Approved Documents) in line with recommendations made by the Expert Group to Dame Judith at Annex F of her Independent Review. This includes the intention to publish an overarching manual to the building regulations and a single online searchable version of all Approved Documents. We have also taken significant steps to review the technical content of guidance and have prioritised reviews to be launched over the next 12 months of Approved Document B (fire safety) and Approved Documents F (ventilation) and L (conservation of fuel and power) in line with the Clean Growth Strategy. We published a consultation on increasing the provision of Changing Places toilet facilities on 12 May⁹ and started a review of carbon monoxide alarms. We have scoped a review of building regulations covering the access to and use of buildings. The Government is considering how to take forward a wider review of Part M as part of the Independent Review recommendations to update the Approved Document guidance. The Government will set out the way forward in due course which may include consulting on amendments to Approved Document J (combustion appliances and fuel storage systems). We also intend to engage with industry and stakeholders over the summer to develop firm proposals for the review of all of the guidance to the building regulations.

Through these proposals we are determined to ensure residents are safe, and feel safe, in their homes and to make sure this remains the case for the generations to come.

The consultation will close on 31 July 2019. Responses to this consultation will be analysed over the summer and a Government response will follow.

⁹ <https://www.gov.uk/government/consultations/changing-places-toilets>

Chapter 1

Introduction and progress to date

1. The Grenfell Tower fire represents the greatest loss of life in a residential fire in a century. It shattered the lives of many people and shook the trust of countless more in a system that was intended to ensure that everyone is safe in the place that they live and sleep.
2. Following the fire, the Government took immediate action, working with local partners including fire and rescue authorities to identify unsafe buildings and make them safe. This action included:
 - Setting up an Independent Public Inquiry to examine circumstances leading up to and surrounding the fire at Grenfell Tower that seeks to understand the events on the night of the fire and its causes;
 - Identifying significant building safety risks arising from the Grenfell Tower fire and all higher risk residential buildings (over 18 metres in height) with unsafe Aluminium Composite Material (ACM) cladding;
 - Ensuring the safety of ACM-clad buildings through immediate mitigation measures and longer-term remediation, and taking action to address other identified risks; and
 - Commissioning an Independent Review to address problems in the wider building safety system and identifying solutions
3. Separately the Metropolitan Police immediately set up an investigation to focus on the construction, refurbishment and management of Grenfell Tower, and the role of the emergency services both on the night and in terms of their responsibilities in being prepared to deal with such an incident.
4. These actions, and the work over the weeks and months that followed to identify system problems, including by the Independent Expert Advisory Panel, advice from the Building Regulations and Advisory Committee and the Independent Review, made it clear that a fundamental reform of the system was required. The Independent Review exposed both cultural and systemic problems in the way that safety in higher risk residential buildings is provided and assured.
5. The Government accepted the diagnosis of the Independent Review, and the Implementation Plan published on 18 December 2018 committed to legislate where necessary to take forward the Independent Review's 53 recommendations for achieving system reform.
6. We intend to deliver this through four main areas of change to provide a coherent new system with clear outcomes for residents, those undertaking building work, and those responsible for buildings:

- i. A stronger and more effective building safety regulatory and accountability framework for buildings in scope, which will have at its core clear responsibility and accountability for keeping people safe. We will prevent people from flouting the system through tougher oversight and stronger sanctions and enforcement.
- ii. Better understanding of what is required to ensure that buildings are safe through clearer standards and guidance, as well as improving the rigour of the product labelling, testing and marketing processes to ensure that people working on buildings use safe products.
- iii. Residents will be at the heart of a new building safety regulatory system through better engagement between them and those managing their buildings, as well as providing more effective routes for escalation and redress when things go wrong. We will ensure that building owners engage more effectively with residents by providing them with better information about the protection measures in place in their buildings, and the role that they can play in keeping themselves and their neighbours and their buildings safe.
- iv. Industry taking greater responsibility for building safety, through improved competence of those undertaking building work on higher risk residential buildings to complement the tougher regulatory oversight regime and encouraging the sharing of good practice.

Action already taken

7. Much of the work to reform the building safety system will require primary legislation, which we have committed to introduce at the earliest opportunity. Wherever possible the Government has begun to make changes in advance of legislation, working with local authorities, fire and rescue authorities and other partners.

Aluminium Composite Material cladding

8. We have set up a comprehensive programme to oversee remediation of existing buildings with unsafe Aluminium Composite Material (ACM) cladding. We have:
 - Pushed owners and local authorities hard to identify and remediate unsafe buildings. We have identified 433 high-rise residential and publicly-owned buildings with ACM cladding systems unlikely to meet building regulations.
 - Worked closely with local authorities and fire and rescue authorities to ensure that interim safety measures are in place until the cladding is replaced.
 - Made £400m available to social sector landlords to fund the removal and replacement of unsafe ACM cladding on residential social housing buildings over 18 metres¹⁰.

¹⁰ <https://www.gov.uk/government/news/government-announces-it-will-fully-fund-unsafe-cladding-removal-in-social-housing>

- Outlined plans for a private sector remediation fund, which will cover the full cost of remediating the unsafe ACM cladding systems on privately owned higher risk residential buildings¹¹. This will allow remediation to happen quickly, it will restore peace of mind and it will protect leaseholders from bearing the cost.
- Supported local authorities to take decisive enforcement action by:
 - Laying an addendum to the Housing Health and Safety Rating System (HHSRS) operating guidance that provides specific guidance on the assessment of higher risk residential buildings with unsafe cladding¹².
 - Establishing a Joint Inspection Team (JIT), hosted by the Local Government Association.
- As a result of our action, across all sectors as at 30 April 2019: remediation is complete in 95 buildings (22%); remediation has started in 110 buildings (25%); there are plans and commitments in place to remediate a further 187 buildings (43%).

Fire Doors

9. We have taken other action to remove unsafe products from the market, as well as intervening in the market to ensure that safety materials are marked correctly. In particular, we began investigating the fire door industry immediately after it was found that a glazed, Glass Reinforced Plastic (GRP) composite fire door from Grenfell Tower, manufactured by Manse Masterdor, failed a 30-minute fire resistance test after approximately 15 minutes.
10. We immediately sought advice from the Independent Expert Advisory Panel and commissioned further tests on the manufacturer and wider Glass Reinforced Plastic (GRP) composite fire door manufacturers. During testing, a sample of Glass Reinforced Plastic (GRP) composite fire doors from 9 manufacturers failed to meet the required fire performance standard. These findings indicated broader failings within the industry on which the Government took further urgent action
11. On 28 July 2018 the Secretary of State instructed major Glass Reinforced Plastic (GRP) composite fire door manufacturers to meet urgently to agree actions to tackle the failings which have been identified. As a result, the following actions have been taken:
 - In August 2018 the three companies providing Glass Reinforced Plastic (GRP) composite fire door blanks in the UK agreed to stop production and sale of any door blanks with immediate effect. This stopped any new GRP composite fire doors from entering the market;
 - In August 2018 the Association of Composite Door Manufacturers (ACDM) further agreed that all GRP composite fire doors sold from their members would be removed from the market until they could demonstrate meeting the

¹¹ <https://www.gov.uk/government/news/government-to-fund-and-speed-up-vital-cladding-replacement>

¹² <https://www.gov.uk/government/publications/housing-health-and-safety-rating-system-assessment-of-high-rise-residential-buildings-with-cladding-systems>

required standard. This stopped any fire doors from ACDM members already in production leaving factories;

- In August 2018 the Association of Composite Door Manufacturers (ACDM) established a collaborative testing programme to facilitate manufacturers bringing quality product meeting the required standard back to market. The ACDM provided assurance that all products brought back to market will have the required furnace test report for both sides of the door before being sold.
 - The Association of Composite Door Manufacturers (ACDM) also agreed that all members of the ACDM will be required to sign up to a third-party accreditation scheme carrying out additional checks on their fire doors to drive up quality across the market;
 - Advice was issued by the Independent Expert Advisory Panel on action that should be taken by building owners, including reviewing their buildings' risk assessments to determine how quickly doors should be replaced. The Ministry of Housing Communities and Local Government (MHCLG) also issued advice to industry on testing Glass Reinforced Plastic (GRP) composite doors.
 - The Association of Composite Door Manufacturers (ACDM) have committed to developing an industry-led action plan for the repair and replacement of affected doors where required. We are working closely with the ACDM on the development of this plan.
12. The investigation into the fire door industry has continued into the timber fire door market and we will be providing further updates on this work over the coming months.

Other Action

13. We have also issued additional expert advice on a range of wider building safety risks which have come to light since the Grenfell Tower fire including advice for building owners on non-Aluminium Composite Material (ACM) cladding systems, spandrel panels, window panels and infill panels on external walls¹³; and advice for owners of buildings with smoke control systems¹⁴. Following advice from the Expert Panel we have commissioned the Building Research Establishment to conduct a testing programme on non-ACM material to improve the evidence available about their performance in a fire. Additionally, we have:
- Consulted on a clarified version of the building regulations fire safety guidance (Approved Document B)¹⁵;
 - Laid regulations and guidance to ban the use of combustible materials during building work on the external walls of buildings of 18 metres or more in height

¹³ <https://www.gov.uk/government/publications/advice-for-building-owners-on-spandrel-panelswindow-panelsinfill-panels-on-external-walls>

¹⁴ <https://www.gov.uk/government/publications/advice-for-owners-of-buildings-with-smoke-control-systems>

¹⁵ <https://www.gov.uk/government/consultations/fire-safety-clarification-of-statutory-guidance-approved-document-b>

and containing flats, hospitals, residential care premises, dormitories in boarding schools and student accommodation¹⁶;

- Launched calls for evidence to both inform a full technical review of the building regulations fire safety guidance, known as Approved Document B (Fire Safety)¹⁷;
- Invited views on how residents are supported to meet their responsibilities to keep their homes and buildings safe, through a call for evidence and are publishing our response today¹⁸;
- Issued amended guidance to restrict the use of assessments in lieu of tests (also known as desktop studies)¹⁹;
- Established an independently chaired Fire Standards Board to create and maintain professional standards for fire and rescue services in England. The board began meeting in February 2019 and is made up of a number of key stakeholders including the National Fire Chiefs Council, the Home Office, the Local Government Association and the Association of Police & Crime Commissioners. The board is supported by the Central Programme Office of the National Fire Chiefs Council.
- Established an Industry Safety Steering Group, chaired by Dame Judith Hackitt, to support and challenge industry to deliver change to building safety culture and practices;
- Worked with the industry-led Competence Steering Group as they have developed proposals for oversight of competence and for action to drive increased competence in key disciplines across design, construction, inspection, maintenance and management of buildings;
- Established a Joint Regulators Group comprising the Health & Safety Executive, Local Authority Building Control, the National Fire Chiefs Council (representing fire and rescue authorities), and the Local Government Association to advise on how best to implement the new regulatory regime for higher risk buildings in scope;
- Launched an Early Adopters Scheme to drive action on building safety, changing practice and behaviour across industry in advance of legislation. Willmott Dixon, Wates, L&Q, Salix Homes, Peabody, United Living, Barratt and Kier are working with Government to provide insight and trial ways of working in line with the Independent Review recommendations and assess benefits in the buildings they are constructing or managing. The Early Adopters have been demonstrating leadership in driving forward cultural and behavioural change through early implementation, sharing good practice and championing the importance and need for change across the sector.

¹⁶ <https://www.gov.uk/government/news/government-bans-combustible-materials-on-high-rise-homes>

¹⁷ https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/767919/Call_for_Evidence_ADB.pdf

¹⁸ <https://www.gov.uk/government/consultations/good-practice-on-how-residents-and-landlords-work-together-to-keep-their-home-and-building-safe-call-for-evidence>

¹⁹ <https://www.gov.uk/government/consultations/approved-document-b-fire-safety-amendments-to-statutory-guidance-on-assessments-in-lieu-of-tests>

Responsible Industry

14. The best of the industry is already taking action to improve their building safety processes, in recognition of both the issues that were identified following the Grenfell Tower fire and the scale of the legislative reform which is planned.
15. Our industry Early Adopters are driving culture change on the ground by piloting some of the proposals in this document, embedding and sharing good practice ahead of legislation and seeking ways to inspire and encourage industry to place residents' safety at the heart of decision-making.
16. The Joint Regulators Group will continue to work with the Early Adopters and others to develop and pilot new approaches, and help us transition to a new, safer system. Industry is also leading the way, through the Competence Steering Group, in developing an approach to overseeing improved competence of those working on higher risk buildings, and the competence frameworks which are vital to underpin our system reforms.
17. The Industry Safety Steering Group is working with the Construction Leadership Council to support the construction and built environment sector and its clients to adopt a new approach to building safety. The work of the Construction Leadership Council and the commitments set out in the Construction Sector Deal in relation to procuring buildings to deliver better whole life performance, to increase skills within the industry and support the development and commercialisation of digital and offsite manufacturing technologies, will support the delivery of safer buildings. The Construction Leadership Council will work with business, professional institutions, trade associations and public sector bodies to embed a new approach to building safety at the heart of the sector. This will require adopting a systems approach across the construction industry to ensure that those with the relevant professional expertise are both responsible and accountable for delivering and managing buildings to ensure their safety.
18. We need all of industry to step up to champion culture change and building safety. That's why the Early Adopters Group has launched a Building Safety Charter pledging their commitment to protect life by putting safety first, ahead of all other building priorities. The Charter will spearhead the cultural and behavioural changes required to achieve a safer building system now and in the future, and will be open to all those in the sector. All those signed up to the Charter will be required to ensure the Charter pledges are upheld in their own organisations, and to be a voice for building safety across the sector. Wider industry are encouraged to demonstrate their commitment to change by expressing their interest in signing up to the Building Safety Charter on the official website now²⁰. Thereafter those who have expressed interest will directly receive more information on the official sign up process.

²⁰ <https://www.buildingasafefuture.org.uk/>

Wider improvements to the regulatory system

19. The Government's Implementation Plan committed to legislating where necessary to take forward Dame Judith's recommendations in full. This consultation sets out the Government's vision for the reformed system – making sure that people are safe, and feel safe, in their homes – and how it intends to achieve it. This consultation sets out a new, stronger building safety regulatory regime for the highest risk buildings, and for oversight of building safety. We are also improving the building safety regulatory system for all buildings, underpinned by our cross-cutting ambition of empowering people as residents and consumers to expect good quality housing; and building better quality homes for the future.

Approved Documents

20. We are improving and updating building regulations statutory guidance (the Approved Documents). Dame Judith said that “current regulations and guidance are too complex and unclear. This can lead to confusion and misinterpretation in their application to higher risk and complex buildings” and accordingly recommended a full programme of review. In reaching these conclusions, Dame Judith was informed by an Expert Group who considered existing building regulations guidance and set recommendations on how guidance could be structured to provide a more streamlined, holistic view that is clearer and user friendly whilst retaining the right level of technical detail. The Government is already taking action to implement several recommendations and will publish the Expert Group's final report shortly.
21. We intend to publish a single online searchable PDF of all Approved Documents and an overarching manual to the building regulations to clarify the purpose of the regulations in delivering safe and healthy buildings throughout their life.
22. The Government introduced a new style for Approved Documents in 2013 and has brought some of them into this new style. The aim is to bring all Approved Documents into the new style and transfer them onto a digital platform to maximise functionality and usability.
23. To achieve the long-term future goal of clearer guidance, Government will also undertake a programme of review of technical content in the Approved Documents. In some cases, the technical content within Approved Documents is sound, however there are some Approved Documents that will be reviewed and updated to reflect the latest developments in science and construction technology.
24. We propose to engage with industry and stakeholders over the summer to develop firm proposals for the review of all guidance to the building regulations, and are prioritising a number of Approved Document reviews to be launched over the next 12 months:
 - We have consulted on the clarification of Approved Document B. We launched a call for evidence (full technical review) which concluded on 15 March 2019 and we are currently reviewing responses. We will publish the

clarified Approved Document B guidance and the response to the call for evidence in the summer.

- In line with the Clean Growth Strategy, we intend to consult later this year on improving the energy efficiency standards of new and existing domestic and non-domestic buildings (Approved Document L). This review also covers ventilation requirements in Approved Document F and consideration of overheating standards.
 - Accessibility requirements in Approved Document M. In particular, we launched a consultation on 12 May on how we can increase provision of Changing Places toilet facilities in specific new, large buildings commonly used by the public, including a potential change to building regulations.
25. In line with the spirit of the recommendations, we intend to conduct further research with the construction industry to understand who uses Approved Documents and how they are used, to influence how Approved Documents should be developed in the future.

The wider housing market

26. We are taking action on quality and safety across the entire housing market to support those who live in social housing, the private rented sector, leaseholders and owners and buyers of new homes. We are helping people now by simplifying access to redress schemes, raising the bar for safety, and driving out unfair practices across the whole housing market. Our wider reforms include:
- Publishing the response to the Strengthening Consumer Redress in the Housing Market on 24 January 2019²¹ which set out ambitious proposals to simplify access for consumers to redress services and close the gaps in redress to allow more consumers to access redress when complaints remain unresolved. The Government announced proposals for a new Housing Complaints Resolution Service to be established to provide a single point of access to redress services across all tenures. We are aware that other bodies are also dealing with housing or housing related issues which will need to be considered as the new service is developed. The Government proposes to set up a new Redress Reform Working Group to work with redress schemes to focus on developing the new service working with industry and consumers bodies. More details on the new Working Group will follow in due course.
 - Announcing we will put an end to ‘no-fault’ evictions by repealing section 21 of the Housing Act 1988²². Under the new framework a landlord will always have to provide a reason for ending a tenancy, such as breach of contract or wanting to sell the property and we will launch a consultation on the details of a better system that will work for landlords and tenants.

²¹ <https://www.gov.uk/government/consultations/strengthening-consumer-redress-in-housing>

²² <https://www.gov.uk/government/news/government-announces-end-to-unfair-evictions>

- Introducing the Tenant Fees Act 2019²³, which bans letting fees paid by tenants in England.
 - Supporting the Homes (Fitness for Human Habitation) Act 2018²⁴, which has empowered tenants to hold their landlords to account if their property is unsafe.
 - Reviewing the Housing Health and Safety Rating System (HHSRS) to ensure that enforcement officers have adequate tools to address issues that are inherent to multi-occupied buildings ²⁵.
 - Reviewing current regulations to establish whether requirements for carbon monoxide alarms should be extended to the installation of all combustion appliances and for all rented homes, both private and social, regardless of heating fuel. The Government will set out the way forward in due course which may include consulting on amendments to Approved Document J²⁶.
 - Through the Social Housing Green Paper, setting out proposals to ensure that social homes are safe and decent and that residents are treated with dignity and respect. To do this we are rebalancing the relationship between landlords and tenants, empowering residents and ensuring their voices are heard.
 - Announcing in the Social Housing Green Paper that we would undertake a wholesale review of social housing regulation to ensure it is fit for purpose and will underpin our ambition to deliver major reform to tenants' experience. We will ensure that the review recognises and reflects the changes we are making in light of the Dame Judith's Independent Review and that the social housing and building safety regulators work together to maintain clear lines of accountability. We will publish our consultation response to the Social Housing Green Paper in due course.
 - On 21 March 2019, we launched the Social Sector (Building Safety) Best Practice Engagement Group, who will work closely with residents to develop best practice and pilot innovative ways of communicating between landlords and residents on safety issues.
27. Ultimately, by giving residents a stronger voice and putting clear responsibility and accountability at the heart of a more effective system the changes that we are proposing will bring about a fundamental change in the building safety regulatory framework and encourage industry to change its culture.

²³ <https://www.gov.uk/government/collections/tenant-fees-act>

²⁴ <https://www.gov.uk/government/publications/homes-fitness-for-human-habitation-act-2018/guide-for-landlords-homes-fitness-for-human-habitation-act-2018>

²⁵ <https://www.gov.uk/government/news/greater-protection-for-renters-thanks-to-plans-to-tighten-tenant-safety>

²⁶ <https://www.gov.uk/government/publications/combustion-appliances-and-fuel-storage-systems-approved-document-j>

Chapter 2

Stronger requirements for multi-occupied high-rise residential buildings

Scope of buildings to which new requirements apply

28. Dame Judith Hackitt's Independent Review outlined a new approach to managing fire and structural risks in high-rise residential buildings. This chapter outlines our proposals for the new regime's initial scope. We propose that the regime initially applies to all multi-occupied residential buildings of 18 metres or more in height. This is our starting point in response to the immediate concern for fire safety in high-rise residential buildings. We also want to hear views on the case for the scope to include certain non-residential, multi-occupied buildings where vulnerable people sleep.
29. The Independent Review recommended that reforms should apply in the first instance to high-rise residential buildings over 10 storeys (equivalent to 30 metres or more).
30. In the Government's response to the Independent Review (the Implementation Plan), we indicated that we would focus the reforms on buildings where a significant fire and/or structural failure could put many people's lives at risk. During the listening exercise we ran on Dame Judith's recommendations, many stakeholders responded by suggesting that Dame Judith's proposal to start with high-rise multi-occupied residential buildings of 30 metres or more was too narrow.
31. Since the Independent Review, the Home Office has undertaken research to better understand the fire risk profiles of different building types. (See Annex B: Rates of fires, fire-related fatalities and casualties requiring hospital treatment in different types of building).
32. In general, the number of building fires attended by fire and rescue services (FRSs) has been on a downward trend over time, falling from around 65,000 in the financial year 2010/11 to around 48,500 in the year ending December 2018, a decline of 25 per cent. The number of fire related fatalities in building fires fell by 21 per cent (from 273 to 216) and the number of casualties requiring hospital treatment in building fires fell by 30 per cent (from 4,123 to 2,902) over the same time period²⁷
33. The new risk research outlines rates of fire and rates of fires involving fatality or casualties requiring hospital treatment by building type and height.²⁸ Overall, the analysis indicates that buildings where people sleep are at greater risk from fires involving fatalities or casualties requiring hospital treatment. The research indicates that for apartment blocks there have been higher rates of fire as the

²⁷ <https://www.gov.uk/government/statistical-data-sets/fire-statistics-data-tables> Tables FIRE0102 and FIRE0502

²⁸ Due to availability of detailed incident and building data the rates of fire were calculated using combined data for the years ending September 2012 to September 2018.

building height increased. The rates of fires were considerably higher in apartment blocks over 18 metres (43 fires per 1,000 buildings between 18 metres and 30 metres) (366 fires per 1,000 buildings 30 metres and above) in comparison to apartment blocks of any height (9 fires per 1,000 buildings).²⁹

34. In light of the responses to the listening exercise and the analysis, we consider that the initial scope for the new regime should extend wider than Dame Judith's proposed starting point. We propose that the regime should cover all multi-occupied residential buildings of 18 metres (approximately 6 storeys) and above. We propose to apply the reforms at the design and construction stage to new builds and, as appropriate, to major refurbishments³⁰. We propose to apply the reforms at the occupation stage both to new builds and to existing buildings (after a suitable transition period).

Q. 1.1. 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.

Other residential blocks of flats

35. The Independent Review identified that overlapping regulatory frameworks (the Housing Act 2004 and the Fire Safety Order) as they relate to the 'common parts' in multi-occupied residential buildings make it challenging to ensure that there is a sufficient oversight and responsibility for fire safety in the whole building when it is in use.
36. We propose that the more stringent regime set out in this consultation would apply to all multi-occupied residential buildings of height 18 metres and over, and that it should be possible to change the scope of the regime in response to our evolving understanding of safety risks in the built environment. We therefore need to consider the best way to ensure that residential buildings under 18 metres are adequately regulated. For design and construction, we consider that the wider change programme on fire safety, including the review of Approved Document B (fire safety) which we expect to consider height thresholds for fire protection measures, should address the key risks at the design and construction stage.
37. For the occupation stage, we are reviewing the Housing Health and Safety Rating System (HHSRS), the tool used by local authorities to assess health and safety hazards from deficiencies in residential premises³¹. This review is exploring the adequacy of the tool used to identify hazards – including fire in multi-occupied residential buildings and Houses in Multiple Occupation (HMOs) as well as other properties (and some such categories of residential housing could include some configurations of supported and sheltered housing that is more residential in its

²⁹ The analysis was designed to explore the relative rate of fires across different types of building and did not take into account the number of individual dwellings or occupants within each building. Therefore, although some building types have higher rates of fires than others this is likely to be because of the higher occupancy rates in larger buildings.

³⁰ The proposal for Gateway one is the exception, where it is proposed that LPAs should be required to consult the FRA for multi-occupied buildings of 30m and above. (see Chapter 3).

³¹ <https://www.gov.uk/government/news/greater-protection-for-renters-thanks-to-plans-to-tighten-tenant-safety>

nature, for example low needs sheltered housing, and some independent living schemes).

38. The HHSRS review is taking place in two phases, and at the beginning of the year the Ministry of Housing Communities and Local Government commissioned RH Environmental to carry out the first phase scoping review. This phase involves reviewing the existing HHSRS methodology and guidance to identify the scale and nature of any revisions that may be needed. This has involved workshops with stakeholders including local authority enforcement officers, landlords, tenants and representatives from the First Tier Tribunal – Property Chamber. The form of the second phase, which will follow on once the first phase has reported, will depend on the recommendations from the scoping phase.
39. The Home Office’s call for evidence on the Fire Safety Order is also seeking views on how the regulatory framework should be clarified to ensure fire safety risks are managed in the parts used in common in multi-occupied residential buildings.
40. Both regimes (enforcement under Part 1 of the Housing Act 2004, as assessed by the HHSRS and the Fire Safety Order) look to ensure risks are appropriately managed in multi-occupied residences. We need to understand further the specific risks posed in multi-occupied residential buildings or HMOs, the best way to regulate them to ensure safety and whether we need to take any additional measures, for example create a statutory duty to co-operate between fire and rescue services and local authorities.

Q. 1.2. How can we provide clarity in the regulatory framework to ensure fire safety risks are managed holistically in multi-occupied residential buildings?

Q. 1.3. If both regimes are to continue to apply, how can they be improved to complement each other?

Non-residential buildings where multiple people sleep

41. Dame Judith recommended that the Government consider whether some reforms should be extended in due course beyond high-rise residential homes to other premises where people sleep. Our guiding principle is to apply more proportionate rigour to managing buildings that have the potential for catastrophic incidents that could cause multiple fatalities.
42. Home Office research at Annex B shows that there are a number of workplaces where people sleep which are not residential but have higher fire rates³². These ‘higher risk workplaces based on statistics are:
 - Prisons – prisons, detention centres and other secure premises³³,

³² The analysis was designed to explore the relative rate of fires across different types of building and did not take into account the number of individual dwellings or occupants within each building. Therefore, although some building types have higher rates of fires than others this is likely to be because of the higher occupancy rates in larger buildings.

³³ For the purpose of the research prisons covers prisons (including public sector and private prisons), detention centres and secure residential accommodation

- Hospitals – health care institution providing patient treatment where patients are kept in overnight or for an indeterminate time³⁴,
 - Supported/sheltered housing – premises where vulnerable people are supported and provided with a safe and secure home³⁵ and
 - Educational buildings – boarding schools and halls of residence³⁶.
43. Some of the definitions we have used in the research to identify these other buildings have been widely drawn owing to how data on fires is collected (this is explained in Annex B). For example, while the data identified supported/sheltered housing as having higher rates of fire and fatalities or significant casualties, this includes a wide range of buildings, and the risks and numbers of incidents might not apply universally across all types of supported/sheltered housing. Similarly, we need to consider the coverage in the definitions of prisons and hospitals, and whether our broad definitions need to be refined.
44. We also need to consider if there are ‘higher risk workplaces’ that may – as a result of their use – also present the potential for catastrophic incidents that could cause multiple fatalities. For example, care homes did not feature strongly in the Home Office data analysis though due to the vulnerability of the occupants, we need further evidence on whether care homes are also a type of building of concern.
45. At the occupation stage the Fire Safety Order already applies to these ‘higher risk workplaces’. Equally some of the Independent Review recommendations for multi-occupied residential buildings are not relevant to these wider buildings.
46. The Home Office’s call for evidence is seeking views on whether the Fire Safety Order provides sufficient fire safety arrangements for ‘higher risk workplaces’ in occupation by comparison with the reforms proposed in the Building Safety consultation for multi-occupied residential buildings 18 metres or more. It is also seeking views on whether relevant aspects of the proposed reforms for residential buildings relating to fire safety should also be applied to ‘higher risk workplaces’ under the Fire Safety Order.
47. We need to consider the best approach to ensure that the fire and structural risks associated with supported/sheltered housing during the occupation stage are adequately managed. Many categories of supported/sheltered housing already have requirements to manage risk under existing requirements, including to assess risk from fire and put in place suitable fire precautions under the Fire Safety Order. If sheltered housing is a private dwelling then the Housing Health and Safety Ratings System under the Housing Act 2004 provisions would also apply.
48. Some supported housing is accommodation provided alongside support or supervision to help people live independently. Such housing is usually in the social housing sector and required to meet regulatory standards, including on safety and decency, set out by the Regulator of Social Housing, but can also be

³⁴ For the purposes of the research, hospitals where analysed by building not whole hospital complex and includes onsite accommodation for healthcare professionals

³⁵ For the purpose of the research supported/sheltered housing covers: sheltered accommodation (including children’s/retirement home, orphanage, hostel, retirement, refuge/ residential centre, non-commercial lodging), communal residence, non-commercial lodgings, residential institution.

³⁶ For the purpose of the research, residential educational buildings cover boarding school accommodation and student hall of residence

provided through the private sector. We are keen to seek views on whether the existing regimes and requirements are adequate or whether some categories of supported/sheltered housing should be subjected to proposed changes outlined in the Independent Review for residential properties in occupation. This issue is particularly pertinent for those categories of supported/sheltered housing that are individual private dwellings, where the Fire Safety Order currently only applies to areas 'used in common' by the occupants.

49. The fire rates in these types of buildings suggest that the Government needs to consider whether we should go further in the scope of the regime beyond residential buildings. We need to understand better the risks in these buildings and what is driving the fire rates. We want to understand whether the risks to people using these buildings once the mitigation measures are taken into account make their inclusion in scope of the new regime proportionate. We are keen to obtain more evidence or expert experience on the key factors that are causing the rates of fire to be higher and whether the risks are driven by actions taken during the design and construction stage or when the building is occupied or whether it is a mix of both. We welcome your views on:

Q. 1.4. 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.

Q. 1.5. 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?

Q. 1.6. 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?

Q. 1.7. 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.

Expanding scope of the new regime over time

50. Given the evolving nature of building safety risks, we propose to establish a system that can flex over time to respond to new information and emerging issues. We are setting out here the proposed initial scope of the new regime, but some of the reforms could be amended to apply to a wider range of buildings, phased in over time where the evidence of risk demonstrates this is justified and proportionate.

Mixed use buildings of 18 metres and above in height

51. It is common for buildings to be in mixed use – that is, a mix of workplace (including commercial premises) and domestic residential use. The most common example is residential flats above restaurants, shops and offices. Where there are two or more responsible persons who share or have duties under the

Fire Safety Order in respect of premises contained within the same building, the Order already imposes a duty on them to cooperate and coordinate with each other.

52. In the event that there is new legislation for multi-occupied residential buildings of 18 metres or more, we need to consider how this would interact with the existing legal requirements both in the Fire Safety Order (for the commercial parts and the parts used in common in the residential areas) and in the Housing Act (for the residential areas only) to ensure fire safety is managed across the whole building. For example, a new duty to cooperate and coordinate could be imposed where there are two or more persons responsible for fire safety within a building regulated by different legislation, namely a responsible person (under the Fire Safety Order) and a new accountable person role proposed for the multi-occupied residential areas of the building 18 metres and above.

Q. 1.8. 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?

Chapter 3

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

53. A more stringent approach to accountability over the whole life cycle of the buildings in scope is at the heart of the new regime Dame Judith described in her Independent Review. Currently, the duties under building regulations are vested in the person undertaking building work. It can be unclear in practice who fulfils those duties and therefore accountability is not clear. To address this, the Independent Review recommended the creation of a system of dutyholders – people involved in the design, construction and management of buildings in scope, who have clear responsibilities at each and every stage of the building’s life. Some of these responsibilities run throughout the building’s lifecycle, while others apply only to particular stages. Together, they form a robust and challenging set of responsibilities that will keep people safe by providing accountability for compliance with building regulations.
54. This chapter is in three parts: duties in design and construction; duties in occupation; and duties that apply across the lifecycle of the building.
55. **Part A** proposes the introduction of five dutyholder roles for buildings in scope during the design and construction phase with clear safety responsibilities that are set out in law: Client; Principal Designer; Principal Contractor; Designer; and Contractor. It sets out key responsibilities for each of these roles, drawing on the approach of the Construction (Design and Management) Regulations 2015 (CDM). It then sets out detailed proposals for three gateway points at which the dutyholder will need to demonstrate that they are managing building safety risks appropriately in order to progress to the next stage of development.
56. **Part B** sets out how Government intends to ensure occupied buildings in scope are safe for residents, through clear responsibilities and a system of registration and building certification, the safety case approach and how it should be applied in design and construction, and for buildings in occupation. The accountable person in occupation will be responsible for applying for and meeting the conditions of the building safety certificate. The mandatory conditions of the building safety certificate will set out the key requirements of the new regime, including engaging with and providing key information to residents and maintaining the golden thread of information, as well as delivering the safety case.
57. **Part C**, on duties that apply across the lifecycle of the building, sets out our proposals for: the golden thread of information and key dataset that will enable building safety information to be available to the right people at the right time during design, construction and occupation; a new mandatory occurrence reporting regime; and competence of key roles in the new regime.
58. It also sets out options for going further, by extending elements of the regime to other buildings and/or by including a statutory objective to promote building safety and the safety of people in and about buildings.

Part A - Dutyholder roles and responsibilities in design and construction

59. We are proposing the dutyholder roles in design and construction should align with those existing dutyholders identified under the Construction (Design and Management) Regulations 2015 (CDM), which provides a clear accountability framework for securing the management of health and safety and welfare for work on construction projects. These roles are:
- a. **Client** - Any person for whom a construction project is carried out as part of their business;
 - b. **Principal Designer** - A designer appointed by the Client to control plan, manage, coordinate and monitor the pre-construction phase, when most design work is carried out;
 - c. **Principal Contractor** - A contractor appointed by the Client to plan, manage co-ordinate and monitor the construction phase;
 - d. **Designer** - Any person who carries on a trade, business or other undertaking in connection with which they:
 - i. prepare or modify a design, or
 - ii. arrange for, or instruct any person under their control (including, where the person is an employer, any employee) to prepare or modify a design;
 - e. **Contractor** - Any person who in the course of furtherance of a business carries out, manages or controls construction work (e.g. building, altering, maintaining or demolishing a building or structure). Anyone who manages this work or directly employs or engages construction workers is a contractor.
60. Dutyholder roles can be fulfilled by either an individual (defined legally as a 'natural person') or a legal entity. However, we are considering whether, where this is discharged by a legal entity, there should be a single accountable person at board level who can be identified as having responsibility for building safety.
61. We intend to give all dutyholders in design and construction of buildings in scope clear duties within the new building safety regulatory regime to support the development of safer buildings. These will take the form of general responsibilities and specific regulatory requirements which will provide a clear, outcomes-based approach shifting responsibility for demonstrating compliance onto the dutyholder. Whilst all dutyholders will have responsibilities under the new regime, the Client, Principal Designer and Principal Contractor will have a key role in delivering compliance in the design and construction phase.
62. In identifying the responsibilities, we will place on dutyholders in design and construction, we have considered those which are already applied through the Construction (Design and Management) Regulations 2015 (CDM). Some of these responsibilities are equally important in the context of building regulation compliance. For example, that Clients must appoint designers/contractors who

understand their responsibilities and have the necessary skills, knowledge and experience. In addition to those that already fall to them through the Construction (Design and Management) Regulations 2015 (CDM), we propose that all dutyholders in the design and construction phase should, as a minimum, be required to do the following:

- a. Co-operate and share information with the building safety regulator;
 - b. Ensure compliance with building regulations. While this duty already exists within legislation we would make clear that dutyholders are accountable as follows:
 - i. for Clients, making arrangements that are suitable for ensuring that the construction work can be carried out, so far as is reasonably practicable, in accordance with current building regulations;
 - ii. for Principal Designers, to ensure that, when preparing or modifying a design the designer must take into account the current building regulations;
 - iii. for Principal Contractors, so far as is reasonably practicable, construction work is carried out in accordance with current building regulations;
 - c. Comply with specific regulatory requirements imposed upon them;
 - d. Ensure they and the people they employ are competent (have the necessary skills, knowledge, expertise and behaviours) and only undertake work they are competent to do.
63. A further duty to promote building safety and the safety of persons in and around the building is discussed at paragraphs 236 to 240.
64. In addition to the general duties listed above, dutyholders should have role-specific duties that reflect their unique contributions towards ensuring that buildings are safe. The role-specific duties for Clients, Principal Designers, Designers, Principal Contractors and Contractors are listed in Annex C.
65. In line with the Independent Review recommendations we propose that these core duties will be supported by more prescriptive regulatory requirements which Clients, Principal Designers and Principal Contractors must comply with. We propose an additional responsibility specific to Clients: that Clients must make suitable arrangements to plan, monitor and manage building work, including the allocation of sufficient time, resources and prioritisation, so as to promote building safety requirements.
66. As the approach taken by the Construction (Design and Management) Regulations 2015 (CDM) is considered to be broadly effective from the perspective of both existing dutyholders and the regulator, we intend to use the Construction (Design and Management) Regulations 2015 (CDM) (particularly part two and part three) as a model for developing our own detailed dutyholder responsibilities in legislation. Some examples of how we would do this are included in Annex C.

Q. 2.1. Do you agree that the duties set out in paragraphs 61 to 65 are the right ones?

Q. 2.2. Are there any additional duties which we should place on dutyholders? Please list.

Q. 2.3. 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.

Q. 2.4. 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.

Gateways

67. This section details our proposals for three specific gateway points in the design and construction of buildings, as well as for major refurbishments (including commercial to residential use). At each of these gateways the dutyholder will need to demonstrate that they are managing building safety risks appropriately before they are permitted by the building safety regulator to continue to the next stage of development. Gateway one occurs before planning permission is granted, gateway two before construction begins and gateway three before the building's occupation. The gateway proposals have been designed to align with and improve, not hamper, the existing planning and building control stages of development. Getting things right in the early stages of development will help to reduce delays, extra work and additional costs at later stages of development or occupation.
68. The Independent Review found that the existing regulatory system in higher risk residential buildings is overly reliant on building control bodies to identify and assess risks. It recommended that we establish gateway points during the design and construction of buildings in scope at which dutyholders would have to demonstrate how they are actively managing safety risks before they can proceed to the next stage of development.
69. We believe that dutyholders should understand how to manage safety in their buildings and be required to demonstrate this at key points during development. We believe that the introduction of gateways will incentivise them to consider fire and structural safety at the earliest opportunity as the information they gather and the approach they will need to take at the design and construction stage will ensure adequate change control and provide assurance about the competence of their suppliers and installers. This will be pivotal in demonstrating that the dutyholders have, and will continue to, manage building safety adequately. This should incentivise them to develop buildings that comply with building regulations and ensure that safety is at the heart of their approach.
70. Resident safety is paramount, and we want these gateways to ensure that critical fire and structural safety issues are considered early in the lifecycle of the

building. We also want to apply the gateways proportionately, placing more stringent requirements on dutyholders for high-rise multi-occupied residential buildings, targeting each gateway on the right set of issues and ensuring that responsible dutyholders are able to proceed with their development project without unnecessary delay.

Gateway one – before planning permission is granted.

71. Dame Judith recommended establishing this gateway as part of the planning permission process. At this early stage of the lifecycle of a building, we believe that the key safety issue that should be considered is whether fire and rescue services will be able to access the building and water supplies in the event of a fire. This will involve introducing new requirements, so we wish to consult on the best way to do this. A far broader set of safety issues would be considered later at gateways two and three respectively.
72. We set out below a number of proposals for how the requirements of gateway one could be implemented in a way that supports Government's wider approach to the planning system. Getting it right from the start of the building process will also support the Government's overarching aim of an efficient planning system that supports housebuilding. It will help developers to avoid delays and additional costs in the building's development by preventing them from embedding inappropriate design details that subsequently have to be put right.
73. We propose to apply gateway one to residential buildings of 30 metres or more in height and estimate that this gateway would apply to an average of 84 buildings per year over the ten-year appraisal period. We propose that gateway one focuses on fire service vehicle access and access to water supplies as the safety issues relevant to land use and the planning process.
74. The Accelerated Planning Green Paper, due to be published later this year, will discuss how procedural improvements can accelerate the end-to-end planning process. In line with that aim, any changes we introduce will be proportionate and risk-based and we will seek to minimise burdens on applicants without compromising safety.
75. We are seeking views on whether gateway one should introduce three possible new requirements which are intended to ensure the overall building system is as coherent as possible and ensure that planning applications agreed at gateway one will not subsequently be held up at gateway two.
76. First, we wish to consult on whether fire and rescue authorities should be statutory consultees to the planning process. The formal planning process for developments begins when a planning applicant/developer applies to the local planning authority for planning permission. As part of the planning permission process, the local planning authority must consult specific bodies when the application relates to certain types of development – set out in Schedule 4 of the Development Management Procedure Order 2015³⁷.

³⁷ See Articles 18, 20, 22 and 23 Town and Country Planning (Development Management Procedure) (England) Order 2015 S.1. 2015/595 <http://www.legislation.gov.uk/ukSI/2015/595/schedule/4/made>

77. Although fire and rescue authorities have to be consulted when building plans applications are made, currently there is no statutory requirement for the local planning authority to consult fire and rescue authorities before determining planning applications for buildings in scope. Dame Judith highlighted that this may increase the risk that planning permission will be granted where fire service access has not been properly assessed. We believe that considering fire safety earlier in the building process will ensure that issues are remedied before inappropriate design details are embedded and become more difficult and costlier to reverse.
78. We therefore wish to seek views on whether local planning authority should be required to consult the fire and rescue authority before granting planning permission for multi-occupied residential buildings of 30 metres or more in height to ensure fire safety issues related to land use are considered at the earliest opportunity. We propose placing fire and rescue authorities under the same duties as are commonly imposed on existing statutory consultees for planning applications. This includes a requirement to respond to the local planning authority and to respond to any pre-application consultation by the applicant on the matters on which the local planning authority is required to consult the fire and rescue authority within 21 days of being consulted by the local planning authority or the applicant. Making fire and rescue authorities statutory consultees would be an interim measure until the building safety regulator is established, at which point, we would consider the merits of the building safety regulator taking on this function.

Q. 2.5. 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?

79. Secondly, the Government proposes that planning applicants submit a Fire Statement with their planning application for multi-occupied residential buildings of 30 metres or more, to inform this consultation with the fire and rescue authority. The Fire Statement would form part of the planning application for consideration by the local planning authority.
80. We propose that the Fire Statement would cover fire service vehicle access and access to water supplies as issues specifically relevant to land use. The requirements for the contents of the Fire Statement would be set out nationally and would need to be proportionate to the development's scale and type. It could include details of any height or width restrictions or layout constraints that may impact on fire service access.

Q. 2.6. 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.

81. Finally, we are also seeking views on whether the fire and rescue authority should be consulted on planning applications for developments within the 'near

vicinity' of multi-occupied residential buildings of 30 metres or more. This approach would require local planning authorities to take into account the fire and rescue authorities' representations about the implications of the proposed development on emergency vehicle access to these buildings. We also wish to seek views on the types of developments that may affect emergency vehicle access and should therefore be covered by this proposal, if implemented. Local planning authorities are already required to consult the local highways authority in certain circumstances where a development may affect road access for emergency vehicles before approving applications, but this is not required in all cases.

82. If fire and rescue authorities were to be consulted on these matters, we would welcome views on the types of development that should be in scope, for example, whether or not single dwellings should be included in such a process, as they are less likely to permanently restrict road access to a nearby residential building of 30 metres or more.

Q. 2.7. 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.

Q. 2.8. What kind of developments should be considered?

- 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.

83. We are also considering whether the dutyholder (Client role) should begin at gateway one for applicants seeking planning permission for multi-occupied residential buildings of 30 metres or more. If so, the duties would include the production of the Fire Statement and ensuring that this (and information relevant to fire safety where not commercially sensitive) are passed on to the Client at gateway two. We recognise not all applicants intend to act as Client if they secure planning permission but we consider it important that the information in the Fire Statement is passed over.

Q. 2.9. 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.

84. As planning permission is confined specifically to issues relating to land use, wider fire safety considerations relating to Part B of the building regulations will separately be considered by the regulator at gateway two when full plans are submitted. There is therefore a risk that a building design could be agreed at gateway one (through the planning system) which would not pass gateway two (as the design does not meet the requirements of gateway two, including building regulation requirements). To avoid this occurring, we recognise that

a developer may find it useful to consider these broader fire safety and structural issues early to help ensure inappropriate design details that would not subsequently comply with building regulation requirements are designed out before full plans submission. This engagement may also be helpful for applicants even before the initial planning application to the local planning authority is submitted at gateway one to ensure planning and building regulations issues related to fire and structural safety are considered holistically.

Q. 2.10. Would early engagement on fire safety and structural issues with the building safety regulator prior to gateway two be useful? Please support your view.

85. We would also welcome views on whether there are alternative approaches or systems outside the planning regime that we could use to ensure safety risks are considered at the start of a development.
86. Some stakeholders have raised concerns that the narrow focus of planning (land use) means that many design issues which could comprise building regulations compliance may not be picked up until gateway two, for example: layout of the building or the materials being used. We are interested in views on whether this could potentially result in both the developer and the regulator at gateway two needing to make changes to the design that would require the developer to make changes to their planning permission (e.g. this could involve a change to a planning condition). We wish to avoid that and ensure that gateway one is applied at the right stage of the design and construction process. We would therefore welcome views on whether planning permission is the most appropriate mechanism for implementing gateway one given its specific focus on land use matters rather than compliance with building regulations.

Q. 2.11. 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?

Gateway two – before construction begins

87. We propose introducing gateway two, at the current “full plans building application” stage, which is already required under the Building Regulations 2010. Our proposals are designed to supplement these existing requirements, which requires some similar information, but not at the level required for the demands of the new regime for buildings in scope.
88. For multi-occupied residential building of 18 metres or more, we expect there to be far greater dialogue between the dutyholder and the building safety regulator to discuss at an early stage the risks inherent to the build and to demonstrate to the regulator how they are managing them. Dutyholders do not need to wait until they have all the information to satisfy gateway two before they approach the building safety regulator. We are keen that the dutyholder and the regulator discuss the risks early on before construction is planned to start to prevent any delays at the gateways.

89. At gateway two, we propose that dutyholders should be required to provide their strategy for how they will comply with building regulations and manage and control safety by providing full plans and supporting documentation, which should include:
- a. **Full Plans** produced by the principal designer - detailed plans/specification of building works in respect of fire and structural safety and how these risks are being managed alongside the necessary specification in all other aspects of the building regulations;
 - b. **3D digital model of the building** produced by the principal designer, covering the building 'as planned' including for example, the products to be used;
 - c. **A Fire and Emergency File** produced by the principal designer – which builds upon the Fire Statement produced at gateway one (where produced) and sets out the key building safety information. The file will then be updated and ultimately passed across to the person accountable for safety during the occupation phase;
 - d. **Construction Control Plan** produced by the principal contractor - describes how building safety and building regulations compliance will be maintained during the construction phase and how change will be controlled and recorded to deliver a safe building at the end of the construction phase.

Annex D provides an example of gateway two.

90. The Fire Statement submitted at gateway one, along with the full plans, 3D digital model of the building, Fire and Emergency File, Construction Control Plan and an outline of adherence to any other relevant codes of practice/requirements submitted at gateway two should allow the Client to demonstrate the “case for safety” to the building safety regulator. This information should build on discussions that should already be taking place between dutyholders and the regulator about how the risks are being managed to meet building regulation requirements and whether the developer has adequately considered how the building is going to be used (once occupied) during the design stage. The dutyholder should discuss with the regulator how fire and structural risks inherent to the building will be managed on an ongoing basis to ensure that the requirements in the building regulations will be satisfied by the end of the build. The dutyholder will need to demonstrate – through the discussions with the regulator – that they have the necessary management systems and competency in place to ensure the finished building will be safe.
91. This approach taken in design and construction provides the basis for the ‘safety case’ approach that needs to be developed for a building in use. The safety case in occupation regime is described in more detail in Part B. This information in paragraph 89 will also form the beginning of the golden thread of information – a cross cutting requirement described in more detail in Part C.

Q. 2.12. Do you agree that the information at paragraph 89 is the right information to require as part of gateway two? Please support your view.

Q. 2.13. Are these the appropriate dutyholders to provide each form of information listed at paragraph 89?

Q. 2.14. 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?

92. Gateway two will be a “hard stop” before the regulator gives permission for construction to begin, to incentivise dutyholders to think of their buildings holistically and consider fire and structural risks at the earliest opportunity. For simple construction projects or refurbishments, it may be possible for the dutyholder to provide all the information outlined above regarding the build before passing through the gateway. The dutyholder would provide the regulator sufficient assurance (before permission is given for construction to start) that they are on course to develop a building that will comply with the building regulations when built. This includes demonstrating that they understand the risks that may occur during construction that might compromise building regulation compliance and have an impact on the building when it is in use and have a strategy for managing those risks.
93. We envisage that gateway two will be a dialogue between the building safety regulator and the dutyholder and the assessment on whether to proceed will be based on the dutyholder being able to demonstrate how they intend to deliver compliance with the building regulations in a holistic manner, and any other relevant legislative requirements, that apply both during design and construction, and when the building is in use. During this discussion the two parties will agree an inspection regime for the whole build and how best to work together in a flexible and agile way to avoid unnecessary delays but ensure that the overall duty is being met and maintained.
94. We also recognise that there may be many circumstances where all the required information (outlined in paragraph 89) may not be available before construction starts and waiting for the information may delay developments from progressing. We expect this to be the case for complex builds. We also recognise that requiring too much information upfront may increase the risk that developments are then subject to a greater degree of otherwise avoidable change control during the construction phase. It may therefore be preferable to have a staged approach, where work could begin on some parts of the project before others. We think this approach could still ensure safety but prevent a dutyholder from delaying the start of the build or the discussion with the regulator because they do not have all the information. This is similar to the approach taken in Scotland.
95. This would still represent a “hard stop” approach but in stages (ie. foundation, superstructure) whereby as agreed at the beginning of the process, the principal contractor/contractors would not be permitted to begin work on other parts of the building until an inspection of the previous stage had been successfully passed and the plan(s) for the subsequent section(s) had also been approved. The Client would also be required to provide a wider design strategy alongside the initial plan setting out its intended approach to the remaining stages of the development, so the building can be assessed holistically. This design strategy would also need to include details of where permission for phased occupation is sought and how the dutyholder intends to ensure the building is safe for residents

to occupy before it is completed. As with the full approach, the assessment on whether to proceed will be made based on compliance with the building regulations and industry best practice agreed with the building safety regulator.

96. Regardless of the route taken – either providing full details before gateway two or in a staged approach – we expect there to be dialogue between the dutyholder and the building safety regulator about how the risks are being managed to ensure that the dutyholder has demonstrated compliance with the building regulations, and any other industry best practice to ensure the building will be safe in occupation. Throughout the build phase we expect the dutyholder to demonstrate the necessary management procedures, skills, competence, and ability to effectively manage and mitigate the risks inherent in the design to the regulator. We expect industry to work with the new regulator to develop best practice guidance on how this will work in practice to ensure safety is being managed but prevent any delays.

Q. 2.15. Do you agree that there should be a ‘hard stop’ where construction cannot begin without permission to proceed? Please support your view.

Q. 2.16. 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.

97. To ensure that safety remains paramount, and to deter dutyholders from beginning construction without seeking approval, we propose that the building safety regulator should be able to mandate that work that contravenes requirements be pulled down, or removed, or laid open for inspection if necessary to adequately check compliance with the building regulations, and that they should be able to prohibit building work from progressing unless non-compliant work is remedied.

Q. 2.17. 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.

Q. 2.18. Should the building safety regulator be able to prohibit building work from progressing unless non-compliant work is first remedied? Please support your view.

Q. 2.19. Should the building safety regulator be required to respond to gateway two submissions within a particular timescale? If so, what is an appropriate timescale?

Q. 2.20. 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.

During construction – laying the groundwork for gateway three

98. While construction work is underway, our objective is to make sure that dutyholders operate in such a way as to lay the groundwork for successful signoff

at gateway three. This means ensuring effective change control arrangements and maintaining an accurate record of the building as built during building work.

99. Currently, if a Client or Principal Contractor wish to deviate from the original plans submitted, they should notify their building control body. A completion certificate/final notice should not be issued for a completed building unless all departures from the plans were notified. We know that this does not always happen in practice, even when significant changes in plans or materials are made. The completed building may not resemble the original plan, which makes it far more difficult for both the building control body and the dutyholder in occupation to understand the building “As Built” and its safety risks. We believe that there should therefore be a clearer change control process during construction to ensure there is an accurate record of any changes.
100. We propose that the Principal Contractor should therefore be required to consult the Client and Principal Designer before deviating from original full plans to ensure safety is not inadvertently compromised. If the Client and Principal Designer are content with the recommended changes, we propose that the principal contractor must notify the regulator of any proposed major changes, for example, structural or fire safety related measures, and submit further details (if requested by the building safety regulator) for approval before carrying out the relevant work. We also propose that they should separately record any other minor changes as part of their Construction Control Plan.
101. We recognise that it may prove difficult to determine the wider impact of certain changes and what should therefore be defined as ‘minor’ or ‘major’. We would therefore welcome views on how this distinction should be made, including whether this should be for the building safety regulator to determine. Changes that might be considered notifiable to the building safety regulator might include: 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; and changes to the active/passive fire systems in the building. **This would not however be considered an exhaustive list.**

Q. 2.21. Do you agree that the Principal Contractor should be required to consult the Client and Principal Designer on changes to plans?

Q. 2.22. 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?

Q. 2.23. What definitions could we use for major or minor changes?

- **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.**

Q. 2.24. 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?

Q. 2.25. What are the circumstances where the Government might need to prescribe the building safety regulator’s ability to extend these timescales?

Gateway three – before occupation begins

102. We propose to introduce gateway three at the current completion certification/final notice stage under the building regulations. The current system already requires certain checks at this point, as well as the handover of key information. Currently when building work is complete, the building control body undertakes a final inspection to ensure the work complies with building regulations before issuing a completion certificate (in the case of local authority building control) or final certificate (in the case of Approved Inspectors) in order for the building to then be safely occupied. Immediately prior to occupation, and as part of this completion process, the relevant fire safety information should be handed over (as required under regulation 38 of the building regulations 2010) to the person who will be responsible for the occupied building and ensuring the management and minimisation of fire risks under the Fire Safety Order. This current approach is intended to ensure that the building owner has critical information about the building design and the assumed fire strategy once the building is occupied.
103. For multi-occupied residential buildings of 18 metres or more, we propose that at gateway three the dutyholder will be required to hand over building safety information about the final, as built building before occupation is permitted. This information (original full plans and agreed deviations; Construction Control Plan; digital record of the building As Built; and updated Fire and Emergency File) will be part of the golden thread of information (see Part C) that will be handed to the Client. This information will provide a basis for the safety case in occupation and safe management of the building. Unlike the current system, where building control bodies verify compliance with the regulations through a completion certificate or a final notice, we propose to transfer this responsibility to the dutyholder. This would involve requiring the principal contractor to produce a final declaration with the principal designer confirming that the building complies with building regulations and that this documentation has been handed back to the Client. To ensure that adequate regulatory oversight remains we propose that on receipt of this declaration, the regulator would decide whether to accept the declaration or request further information.

Q. 2.26. 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.

Q. 2.27. Should the building safety regulator be required to respond to gateway three submissions within a particular timescale? If so, what is an appropriate timescale?

Q. 2.28. 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.

104. Before occupation can commence, the Client (during the design and construction stage) must either apply and receive a provisional registration of the building (if they intend to transfer their interest to a third party) or the accountable person in the occupation phase must have been granted registration. More detail about the registration scheme is set out from paragraph 177.

Q. 2.29. 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.

Q. 2.30. 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.

105. Most higher risk residential buildings are currently occupied in stages. We want to introduce safeguards to ensure that no building is occupied before it is safe, and that safety is maintained during occupation. In doing so, we want to avoid unnecessary delays for developers who are acting responsibly. We are therefore seeking views on whether partial occupation should be permitted before an overall building is complete as long as the case for safety for partial occupation is made at gateway two, and the building safety regulator is satisfied that the case for safety remains strong.

Q. 2.31. 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.

Approach to significant major refurbishments

106. We believe that a similar gateways process should apply to buildings in scope that undergo significant refurbishment (including for example a major refurbishment of a residential tower block as part of an estate regeneration project or buildings undergoing a change of use as set out in regulation 5 of the building regulations 2010 from commercial to residential). Buildings in scope that undergo significant refurbishment should be subject to the same degree of regulatory oversight. We propose that significant refurbishment projects that require a planning application should be required to start at gateway one. Where a planning application is not required (because it has been permitted by the

General Permitted Development Order 2015), we propose that they should start at gateway two which will ensure a rigorous assessment of fire safety issues.

**Q. 2.32. Do you agree with the proposal for refurbished buildings?
Please support your view**

Transitional arrangements

107. We would also welcome views on how to apply the new building safety regulatory regime, once it comes into force, to developments in scope that are already underway. We propose that they should be required to go through the next relevant stage of the overall gateway process depending on the stage of the development. For example: where planning permission has not yet been sought, we propose that they should go through gateway one; where planning permission has been granted but full plans have not been submitted, we propose that they should start at gateway two; and where construction is already underway, we propose that they should start at gateway three.

Q. 2.33. Do you agree with the approach to transitional arrangements for gateways? If not, please support your view or suggest a better approach?

Part B – Duties in occupation

108. Part A describes how we intend to change the building safety regulatory system in order to ensure that building safety is prioritised during design and construction. This is vital but covers only the first part of the life-cycle of a newly constructed building. This section applies to residential buildings (including mixed commercial and residential buildings) in scope, both those that are currently occupied and to newly constructed buildings as they enter occupation.
109. Most buildings are occupied for many years and undergo changes over this period that can significantly affect the safety of their occupants. Our assessment of safety risks in those buildings evolves as the buildings naturally degrade and undergo refurbishment, as new information about their condition comes to light and as technological innovation presents us with new ways to mitigate those risks. Dame Judith's Independent Review found that the existing regulatory system for residential buildings in occupation was not fit for purpose for higher risk buildings. She identified that overlapping regulatory frameworks (the Housing Act 2004 and the Regulatory Reform (Fire Safety) Order 2005) as they relate to the 'common parts' in multi-occupied residential buildings make it challenging to ensure that there is a sufficient oversight and responsibility for fire safety in a residential building as a whole when it is in use. Our proposals in this chapter are intended to remove such overlap and to facilitate a whole building approach in ensuring the safety of residential buildings and their occupants.
110. Dame Judith recommended that we should clarify who is responsible for ensuring the safety of higher risk buildings while they are occupied, and introduce a more rigorous approach for assessing and remediating higher risk buildings during occupation – called a safety case – which requires the person responsible for the safety of the building periodically to demonstrate to a building safety regulator that they are doing everything that can be reasonably expected of them to ensure that fire and structural building safety risks are being managed.
111. First, we set out proposals for introducing a new safety case regime for multi-occupied residential buildings over 18 metres. This is a fundamental change in approach, focused on understanding and actively managing down risk and is core to the new regime.
112. We also set out proposals to clarify responsibilities during occupation by setting out the duties of the accountable person, supported by a competent building safety manager. Central to these duties would be registering with the building safety regulator and complying with conditions of the building safety certificate for the building issued by the building safety regulator. This certificate would include mandatory conditions covering key elements of the new regime, including operating a safety case regime, and engaging with residents (detailed requirements for engaging with and providing information to residents are set out in Chapter 4).

Safety cases

113. The proposed safety case regime is at the core of the new, more stringent accountability regime and will involve a holistic approach to fire and structural risks not provided for under the current legislative framework. We intend, as indicated earlier, to apply it from the outset of the new building safety regime to multi-occupied residential buildings over 18 metres in height.
114. Safety case regimes, as envisaged in the Independent Review, have been developed in response to a number of serious incidents in “high hazard” industries. They are becoming increasingly widespread and are particularly prevalent in the railways, nuclear and petrol-chemical industries where higher levels of confidence in safety must be demonstrated.
115. They embody an evidence-based approach in which the dutyholder identifies and understands the hazards and risks involved in a building, describes how risks are controlled and describes the safety management system in place, including emergency procedures in the event of an incident. This approach is tailored to each building and is proportionate because the level of detail and amount of information required is determined by the level of risk.
116. Safety case regimes impose greater demands on dutyholders and regulators to provide assurance when compared with standard approaches to risk assessment.
117. In all industries that operate a safety case regime the designated regulator gives permission, which is based on a safety case showing that the associated risks and hazards have been assessed, appropriate limits and conditions have been defined and adequate safety measures have been identified and put in place.
118. In common with these regimes, to ensure safety in occupation, we propose that as a requirement of the proposed building registration process under this new regime an accountable person will be required to produce a safety case that will be approved by a regulator prior to issuing a building safety certificate.
119. This requirement will apply to all buildings within the scope of the new regime – both current stock and those that will go through the new gateway points process. For new buildings, this will mean that occupation may not commence until the building safety regulator is satisfied with the safety case and has issued the building safety certificate. We believe that this will improve the safety of new buildings and existing building stock and will give reassurance to residents.

Q. 3.1. 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.

120. This will require the relevant dutyholder to consider how they are effectively and reliably managing the fire and structural risks throughout a building’s lifecycle: through the planning stage, the construction phase, the completion stage, the occupation and maintenance stage, when any refurbishments are carried out right through to when a building is demolished. The safety case will need to be pertinent to the different risks that will be present in the building depending on which phase the building is in.

121. As the building passes through its lifecycle phases, so will the responsibility pass from dutyholder to dutyholder for managing fire and structural risks within the building (e.g. from the Client during the construction phase to the accountable person when a building is occupied by residents). The golden thread of building information will be key to enabling the person inheriting the risk to understand how the building operates, what layers of protection exist and what needs to be done in order that any risk is managed so far as is reasonably practicable going forward.

How risks are currently managed during occupation

122. Under the Fire Safety Order a responsible person³⁸ must carry out and review a fire risk assessment regularly. Specific hazards and risks introduced by the occupiers cannot be addressed at the design stage because they are unknown. Some specific mitigation measures, such as fire stopping, will however have been 'built-in' at the design stage and will have been consulted upon at the relevant part of the building control process.
123. During the occupation stage the fire risk assessment process helps to identify the risks relevant persons are exposed to and enables appropriate fire safety precautions to be put in place to comply with the Fire Safety Order (FSO). In this way the overall risk is reduced to within tolerable limits (i.e. according to the principles of so far as is reasonably practicable). The responsible person should record significant issues identified as part of the risk assessment³⁹ including measures that they have taken or will take to mitigate the risks identified. Maintenance of premises, equipment, and facilities for the purposes of fire safety are required under the FSO. If further work is necessary, the responsible person needs to engage a competent person to undertake this work⁴⁰.
124. In multi-occupied residential buildings there may be further assessments made by the local housing authority using the Housing Health and Safety Rating System (HHSRS), the scheme looks at 29 hazards, including fire and structure. In these residential buildings, the common areas are subject to the Order and the domestic parts are (or may be) subject to the HHSRS.

The new safety case approach for managing the risks in new buildings

125. The Independent Review concluded that the system was lacking a regulatory driver and mechanism to require hazards to be identified, risks assessed and appropriate mitigation measures put in place to reduce those risks as far as is reasonably practicable. The proposed safety case is intended to do this. The key principle is that an accountable person has to make a case to the building safety regulator demonstrating that hazards have been identified, risks assessed and appropriate mitigation put in place. The building safety regulator is empowered to

³⁸ Responsible person as defined in Article 3 of the Regulatory Reform (Fire Safety) Order 2005
<http://www.legislation.gov.uk/ukxi/2005/1541/article/3/made>

³⁹ As outlined in Article 9(6) of the Regulatory Reform (Fire Safety) Order 2005
- <http://www.legislation.gov.uk/ukxi/2005/1541/article/9/made>

⁴⁰ The full list of fire safety duties is set out in Part 2 of the FSO. <http://www.legislation.gov.uk/ukxi/2005/1541/part/2/made>

interrogate the safety case, can require changes and, if necessary, can reject it. If the building safety regulator is satisfied that the case has been made, then, at gateway three, once construction is complete, the Client/ Principal Contractor/ Principal Designer or accountable person is permitted to proceed to the next stage in the regulatory process. During occupation the safety case will need to be reviewed at least every five years. The building safety regulator must be satisfied with the safety case for the accountable person to continue to hold a valid building safety registration certificate.

126. While safety cases may be novel for buildings, elements of the approach and content are well established for managing other major hazard activities. We will continue to work with the Joint Regulators Group and Early Adopters Group over the coming months to identify what regulatory compliance will look like at the stage when an accountable person needs to present the safety case to the building safety regulator and what good building management looks like on an ongoing basis. We consider that this will be based on existing standards and best practice examples.

127. We believe that a building safety case should:

- Provide the necessary information, in a structured way, concerning the hazards affecting the building;
- Be an argument that goes beyond a risk assessment and demonstrates that fire and structural risks, and any measures in place to manage those risks, are being managed so far as is reasonably practicable;
- Be supported by a body of appropriate evidence;
- Use plain language (to facilitate communication with those who need to understand the safety systems in buildings); and
- Be kept under constant review.

128. We believe that a building safety case should contain:

- A comprehensive description of the building – including information on preventive measures (preventing hazards from being realised) and protective systems (providing protection in case hazards are realised);
- An understanding of the life-critical risks (for fire and structural safety) and evidence how they are being proactively and proportionally managed for safe occupation; ‘as built’ information;
- Evidence gained through regular inspection, reviews and maintenance of the building;
- The safety management system for the building, which sets out the management structure employed;
- Evidence of continuous improvement over time i.e. a living document that references the most up-to-date versions of supporting evidence (including records of changes e.g. to the technical data pack);
- Mandatory occurrence reporting (see Part C);
- Emergency preparedness (akin to a business continuity plan) so that appropriate actions are taken to mitigate hazards and minimise incidents (by

avoiding hazards altogether, reducing the frequency or reducing the consequence of hazards being realised);

- Evidence that legislation, requirements, standards and policies applicable, have been met or complied with;
- Reference to other documents, such as a Resident Engagement Strategy, a Fire and Emergency File and any relevant structural or fire safety inspections, and (where other documents are needed to support the argument), those documents may be referenced within the safety case.

129. We envisage that the relevant dutyholder and the accountable person, once the building is occupied, will be supported through the production of specific guidance for safety cases, issued by the building safety regulator.

Q. 3.2. Do you agree with our proposed content for safety cases? If not, what other information should be included in the safety case?

Case study – MHCLG Early Adopters

Creating the safety case – L&Q have selected a team of specialists (architect, fire engineer, structural engineer, BIM consultant and digital survey company) to help create the safety case on three HRRBs as a pilot project (it is expected that in the future of a safety case will be required to be submitted to the building safety regulator for all existing HRRBs). The buildings selected range in age from a 1960s tower (stock transfer) to a new build block. The level of information currently held in a digital format also varies between each of the buildings, which typically reflects what will be found for organisations that have large and varied property portfolio. A variety of data collection systems will be used to complete the project including, laser point cloud scans and photogrammetry, to construct a 3D Revit model for each building with the aim of creating a replica or ‘digital twin’ of the existing building. The project will test how practical it is to use the ‘digital twin’ as the evidence base for the safety case. It will also explore if there are other benefits the ‘digital twin’ can provide for asset and building management.

Safety Cases for an existing (occupied) building

130. For new buildings, constructed under the new regime moving into the occupation phase, the information provided and measures taken at earlier gateways (through the design and construction safety case), which would be part of the golden thread of building information covered later in this chapter, would provide much of the material required about how the building should be managed when in use to prevent or contain hazards.
131. However, we are aware that the production of a full safety case as outlined in paragraph 127 and 128 will be more complex for many existing buildings where information on the building or the safety systems within it might be limited, absent entirely or very expensive to obtain. This will clearly hamper the accountable person’s ability to evaluate and identify risks and as a first step they are likely to conduct an evidence gathering exercise.

132. The Independent Review makes it clear that a building safety regulator assessing a safety case may require less information than would be required for new buildings in order to avoid placing unreasonable requirements on existing building owners where information has not been handed over from the construction phase or from a previous owner. It also states that, in the context of safety cases, where information is not available and cannot be collected, the accountable person will need to explain why this is reasonable and what steps they have taken in mitigation against the (potentially unknown) risks, so far as is reasonably practicable. It would be important for the accountable person to have a firm basis for their determination of safety and assure themselves and residents that they understand the risks and are managing them adequately rather than rely on assumptions or guesswork.
133. The accountable person may therefore think it proportionate to undertake an intrusive survey as a first step to build an accurate record to support the safety case. This could include destructive inspection and testing, such as a Type 4 fire risk assessment, which looks at fire and structural risks.
134. The scope of any inspection needs to be relevant to the nature of the premises and the amount known in respect of the structural protection so that the accountable person has assurance that it provides information as to the risks that are inherent across the whole building. The Type 4 fire risk assessment for example has a degree of destructive inspection, in both the common parts and the flats, carried out on a sampling basis. This will usually necessitate the presence of a contractor for the purpose of opening up construction and making good after the inspection. However, the nature of the work is such that, often, destructive inspection within flats can only be carried out in those that are vacant. This would be the most comprehensive risk assessment but will only be appropriate in limited circumstances – such as when an accountable person has responsibility for a building in which the history of works carried out is unknown and there is reason to suspect serious risk to residents from both a fire in their own flats and a fire in neighbours' flats.
135. The information gathering exercise may result in the identification of areas in need of remedy or further mitigation in order to ensure that risks are being managed so far as is reasonably practicable. This could include replacing all cavity barriers, if that is proportionate from the findings of the invasive survey, or the replacement of a fire door that was found to be below standard.
136. In developing our thinking on the content of safety cases for buildings in occupation we have considered existing regulatory frameworks, standards and guidance.
137. The evidence that could build a safety case is potentially vast. Safety cases used in other contexts are commonly assembled as multiple physical documents, stored digitally, that collectively make the case for safety and reference where evidence can be found.
138. Management systems generally allow for various levels of complexity, provided the need is met (e.g. the 'fire risk management system' standard (PAS 7) from the British Standards Institution helps organisations implement a system to improve fire-risk management. Also, INDG47 - Leading health and safety at work

– June 2013⁴¹ and HSG65 - Managing for health and safety – 2013⁴² which assist organisations to find the best way to put in place and promote arrangements for managing for health and safety). We believe that the principles of management systems may form a reasonable basis from which to build a safety case.

139. A safety case approach should ensure active engagement by an accountable person in the risk assessment process and promote better understanding of risks and relative priorities. The purpose of prioritisation is to identify and rank risks so that they can be adequately managed. Through a process of prioritisation, both safety and business risks should be adequately managed and controlled.

Assessing risks on an ongoing basis

140. The safety case regime will require an accountable person to demonstrate how they are managing fire and structural risks on an ongoing basis. Buildings will be occupied for many years and undergo changes over that period that significantly affect the safety of those who interact with the building. Safety critical measures will naturally degrade over time. Measures, like cavity wall barriers, will undergo wear and tear and will deteriorate over time. The accountable person will need to be confident and competent to make decisions, in discussion with the building safety regulator, about when to upgrade these precautions and the most appropriate way to do so. Refurbishment will need to be phased and discussed in line with information about the condition and in step with technological innovation which may introduce new ways to mitigate those risks.
141. It is expected that the registration will be reviewed every five years. We propose that this will also trigger a formal review of the safety case by the building safety regulator. However, there may be other instances where a review may be necessary (for example as a result of occurrence reports, refurbishment activity, concerns raised by residents or risk reports) which may result in the safety case being reviewed more often in some buildings. The accountable person may also wish to seek the building safety regulator's views on the safety case from time to time if they have concerns about any measures they are taking.

Q. 3.3. 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.

The safety case regime and remediation

142. The introduction of the safety case review process for existing buildings may lead to the identification of previously hidden safety risks and create new requirements for improvement works (for example, addressing defects in past installation of fire protection measures or mitigating significant risk by retro-fitting sprinklers or other measures). We believe that where the safety case uncovers issues that require

⁴¹ <http://www.hse.gov.uk/pubns/indg417.pdf>

⁴² <http://www.hse.gov.uk/pubns/priced/hsg65.pdf>

remedying, it is right that such works are undertaken to protect residents' safety and the value of their homes.

143. However, we are mindful that this may be costly and remediation works are likely to be different to other costs of the new building safety regime because they may be one-off, unpredictable and vary considerably between buildings. Currently, we would expect such costs to fall to leaseholders and landlords in the same way that costs for other major works in multi-occupied residential buildings would, including those arising from Fire Risk Assessments required under the Fire Safety Order.
144. In line with the Independent Review we think that the safety case should be underpinned by the general principles of so far as is reasonably practicable. This involves weighing a risk against the trouble, time and money needed to control it. This can require dutyholders and regulators to exercise judgement. For complex fire and structural safety issues or novel situations, recognising standards and good practice provides a starting point, and applying more formal decision-making techniques, including cost-benefit analysis, inform judgement. Often a decision on what measures need to be taken will be made as a result of discussions between the building safety regulator and the accountable person and will provide mitigation against unnecessary costs.
145. Where works are necessary, but not urgent, it may be appropriate to undertake these in stages. Often decisions on how and when building improvements are carried out in multi-occupied residential buildings are discussed during management meetings and often a plan of when refurbishments are going to be undertaken is agreed at an annual general meeting. It may be possible that some of the costs can be reduced if they can be factored into the plan of improvements so that costs can be planned for and phased, while ensuring that life critical measures are adequately prioritised to ensure residents' safety.
146. We are also examining other options to mitigate or provide alternative financing routes to meet such costs.
147. As part of our wider leasehold reform agenda we are reviewing the existing service charge regime for leaseholders, and how charges can be managed in a reinvigorated commonhold tenure.
148. The Government believes very strongly that service charges should be transparent, communicated effectively and that there should be a clear route to challenge or redress if things go wrong.
149. We also want to see what more could be done to better plan and manage costs for leaseholders. In particular, large one-off bills for major works can be a source of great distress for leaseholders. There can also be a lottery of timing for leaseholders in facing such bills where there is no effective sinking fund in place.
150. We have asked the Regulation of Property Agents (RoPA) Working Group, chaired by Lord Richard Best, to consider how fees should be presented to consumers and standards around service charges and how to include them in a statutory Code of Practice. The RoPA Working Group is expected to report back to Ministers later this summer.
151. We welcome the proposals from the Law Commission on commonhold, in particular how to ensure that a commonhold association could respond to large

one-off bills. Their proposals include making it compulsory for a commonhold association to set up a reserve fund and providing new powers enabling a commonhold association to grant a floating charge over its assets in order to borrow money to deal with exceptional expenditure. We look forward to receiving the Law Commission's recommendations.

152. We are also grateful for recommendations around service charges, major works and sinking funds made by the recent Housing, Communities and Local Government Committee on leasehold reform⁴³. Government will consider recommendations made by the RoPA Working Group alongside recommendations made by the Committee on leasehold and freehold fees and charges and consult as necessary.
153. We are keen to seek views on the options to ensure that crucial safety works issues are assessed and addressed in a proportionate way and that, where needed, they are conducted quickly, to keep residents safe whilst allowing for costs to be recovered. The new building safety regime described in this document will, over time, lead to safer buildings and less need for remediation work in future in order to address safety issues, particularly for new buildings or major refurbishments carried out under the new regime. Where urgent, safety-critical work is necessary for existing buildings, we want to look at how we can mitigate the cost impact on leaseholders. In particular, we are keen to explore the role that building insurance or warranties could play in helping to manage risks and costs, including legal costs. We also want to ensure that we mitigate any impacts on the insurance market and mortgage market. We will therefore carry out further work, in conjunction with industry, residents' groups and leaseholder groups, to develop options to mitigate the costs of urgent, safety-critical work that is discovered through the new safety case regime, and to assess the impact on the insurance market.

Q. 3.4. Which options should we explore, and why, to mitigate the costs to residents of crucial safety works?

Clarifying building safety responsibilities during occupation

154. Keeping buildings safe during occupation depends on collaboration between the building owner(s), the building safety professionals and occupants who help the owner(s) to keep the building safe, and the regulators who provide assurance and intervene where safety is compromised. We propose to establish in law clear building safety duties that would apply to these actors.

A new accountable person

155. The Independent Review recommended that buildings in scope should have a dutyholder who is clearly responsible for ensuring that the building is safe during occupation. We agree.
156. We propose to create in law an 'accountable person' role for the occupation phase of residential buildings in scope. The accountable person will be legally

⁴³ <https://www.parliament.uk/business/committees/committees-a-z/commons-select/housing-communities-and-local-government-committee/inquiries/parliament-2017/leasehold-reform-17-19/publications/>

responsible for ensuring that building safety risks to occupants are reduced so far as is reasonably practicable. They may appoint professionals to support them in fulfilling this responsibility but may not - in doing so - delegate accountability to another party.

157. The accountable person will be required as a minimum, to:

- Ensure that buildings which are in scope of the new regime and are under their control are registered with the building safety regulator;
- Ensure that the building safety regulator has been provided with an address in England or Wales at which the building safety regulator can serve notices on the accountable person;
- Ensure that a named building safety manager is appointed for each of those buildings, that the building safety manager meets the competency requirements set by the building safety regulator and are registered with that regulator;
- Ensure that adequate measures are in place to manage building safety in those buildings, including ensuring that the building safety manager has access to the funding and co-operation necessary to carry out their functions;
- Comply with all requirements in the building safety certificate that will be issued by the building safety regulator – mandatory conditions will include the key elements of the new regulatory regime;
- Carry out and provide the building safety regulator with a safety case demonstrating that they, as the accountable person, are taking action to ensure that the building safety risk to occupants is reduced so far as is reasonably practicable and comply with all requirements arising from the safety case.

158. More details on the building safety manager role and the building safety certificate are provided below.

159. We propose that the accountable person should be identified by reference to their right to receive funds (whether through service charges or rack rent), directly or indirectly, from leasehold owners and other tenants of the buildings, which contribute to the cost of the maintenance and upkeep of the structure of the building, and the services, plant and common parts within it, which are the responsibility of that person, whether through contract or by law.

160. This person, who may be an individual, partnership or corporate body, should be a person who has control of the building. The accountable person would therefore in most cases be the relevant building owner (freeholder or head lessee, including overall landlord) or a management company, such as those with responsibility under the lease for collecting and discharging service charges or a right to manage company.

161. Where the accountable person is a legal entity rather than an individual, we propose that there should still be a single accountable person at Board level. Where a building is owned commonhold, the accountable person is likely to be the Commonhold Association.

162. For new residential buildings, the building safety regulator will require that an accountable person is registered with that regulator before it grants permission for the building to be occupied.
163. For existing residential buildings, we propose to introduce similar requirements and to implement them following a transitional period.

Q. 3.5. Do you agree with the proposed approach in identifying the accountable person? Please support your view.

Q. 3.6. 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.

Q. 3.7. 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.

164. We propose that only the building safety regulator, not the accountable person, may transfer their accountability under the building safety certificate to a third party. This applies even if the accountable person is proposing to transfer their interest in the building to that third party. Prior to the transfer of the interest or management of the building, the third party would be required to apply to the building safety regulator to become the registered accountable person. If they meet the requirements of registration, the building safety certificate would be transferred to the new person, who would then become liable for conditions applicable for the whole period of the registration including any previous liabilities that fell to previous accountable persons.

Q. 3.8. 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.

A new building safety manager role

165. The Independent Review recommended that the person who is responsible for the safety of the building during occupation should be supported by a competent building safety manager. The building safety manager would be appointed by the accountable person and would carry out the day to day functions of ensuring that the building is safely managed and maintained, including engaging residents and overseeing safety works, and others employed in management, maintenance or checks of the building.
166. We agree. We propose to create in law the role of a building safety manager for the buildings in scope. A building safety manager would be required to carry out their functions in accordance with the requirements in the building safety certificate and the safety case, and the accountable person would be required to register them with the building safety regulator as the building safety manager for the building(s) in which they are operating.

167. The function of the building safety manager should be to support the accountable person in fulfilling their duties to manage fire and structural risks, and would include:
- Ensuring that those employed to maintain and manage the building have the necessary skills, knowledge and experience;
 - Maintaining information management systems to facilitate safe management of the building;
 - Maintaining the safety case for the building so that risks are proactively identified and mitigating measures put in place and maintained;
 - Ensuring that necessary and appropriate building remediation is undertaken to ensure that the conditions set out in the building safety certificate are met;
 - Engaging residents in safe management of their building through a Resident Engagement Strategy that includes routes of escalation for resident concerns;
 - Ensuring that fire risk assessments for the whole building are undertaken and reviewed regularly and any recommendations are undertaken in a timely manner; and
 - Being responsible for reporting mandatory occurrences to the building safety regulator.
168. We propose that an accountable person may act and be registered as the building safety manager, provided they meet the test to do so and the building safety regulator is satisfied they are competent to do so. If the accountable person is unable to or does not wish to carry out the functions of the building safety manager themselves, they must nominate a third party to act as the building safety manager. This person could be a managing agent or a contractor, but they would be required to work under the control and supervision of the accountable person, to be registered with the building safety regulator and to satisfy that regulator that they meet the tests for registration.
169. The accountable person would not under any circumstances be able to transfer or delegate to the building safety manager their responsibility for complying with the building safety certificate and the safety case, or their liability for failing to do so. Where the building safety manager is a third party, it too is accountable for its performance in complying with the obligations under the building safety certificate, unless it can show that failure to comply was the result of obstruction or negligence on the part of the accountable person.
170. In deciding whether a particular building safety manager is suitable and can be registered as such, the building safety regulator will need to be satisfied that they have the necessary team and funding, as well as the competence, experience and qualifications to undertake their functions in compliance with the building safety certificate. The building safety regulator would consult other responsible authorities, such as a local authority or relevant professional and trade bodies, and in making its decision about the person's suitability must have regard to representations received from those authorities. The building safety manager is a key role and the competence requirements of the role have been considered in detail by the industry-led Competence Steering Group. Their recommendations are described in more detail in Part C and Chapter 5.

171. If the accountable person decides to replace the building safety manager, the professional they are seeking to appoint will have to agree to comply with the building safety certificate and the appointment can only go ahead if it has been agreed and registered by the building safety regulator. The building safety regulator will have to be satisfied that the nominated professional is suitable and meets the tests for registration in the usual way.

Q. 3.9. Do you agree with the proposed duties and functions of the building safety manager? Please support your view.

Q. 3.10. Do you agree with the suitability requirements of the building safety manager? Please support your view.

Q. 3.11. Is the proposed relationship between the accountable person and the building safety manager sufficiently clear? Please support your view.

172. Where there is no one suitable, for the time being, to be registered as the building safety manager or where the building safety manager is no longer suitable by reason of their conduct, we propose a default position through which the building safety regulator would appoint an independent building safety manager. This will help to safeguard building safety and ensure that the occupants of the building can be kept safe.

173. Where a building safety manager is appointed by the building safety regulator, the costs they incur in carrying out the functions will need to be funded. Potentially this could be through a diversion of parts of the rents or service charges through an order made by the building safety regulator. Under such circumstances, the independent building safety manager will be accountable to the building safety regulator and not to the person having control of the building.

174. The appointment of an independent building safety manager is however a last resort where there is no other person suitable to be registered as the building safety manager. To discourage this from being the default we are proposing a new criminal offence on the accountable person of not submitting a valid application to register the building.

Q. 3.12. 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.

Q. 3.13. 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.

Q. 3.14. Under those circumstances, how long do you think a building safety manager should be appointed for?

Q. 3.15. Under what circumstances should the appointment be ended?

Q. 3.16. Under those circumstances, how do you think the costs of the building safety manager should be met? Please support your view.

Clarifying the responsibilities of occupants

175. Dame Judith recommended that residents should have clear obligations in relation to maintaining the safety of flats and should co-operate with the dutyholder to the extent necessary to enable them to fulfil their duty to keep the building safe. We agree and propose to create a new requirement on residents of buildings in scope to co-operate with the accountable person in discharging their duty to keep the building safe. This helps to underpin a system in which everyone's duties are clear and mutually reinforcing in the interests of the safety of all. We describe how we think this requirement could work in Chapter 4.

Providing greater information about building safety responsibilities

176. Setting out in law the building safety responsibilities of building owners, building safety professionals, occupants and the building safety regulator is essential. But this will only have the desired effect if those responsibilities are well understood and if there are significant consequences for those who fail to fulfil them. We propose to achieve this by giving the building safety regulator and residents significantly better understanding of who is responsible for which aspects of safety in the buildings in scope.

Registration of multi-occupied residential buildings of 18 metres or more and the building safety certificate

177. We propose that the accountable person for a building in scope is required by law to register with and obtain a building safety certificate for their building from the building safety regulator. It would be a criminal offence for a person having control of a building in scope not to make a valid application for its registration. For new buildings that are in scope, the building safety regulator would not permit the building to be occupied until a certificate has been issued and the building has been successfully registered. For existing buildings, we propose a transitional implementation period.
178. The building safety certificate will identify the accountable person, the building safety manager, the building for which the accountable person is accountable and the obligations (conditions) for ensuring the building is safe for residents. The registration process will help the building safety regulator to provide assurance that:
- The accountable person has sufficient control of the building to ensure that the obligations of the building safety certificate may be met;
 - The accountable person is complying with the requirements of the building safety regulatory regime and the obligations attached to the building safety certificate;
 - The building safety manager is competent and suitable to perform the role;
 - The building safety manager is discharging their functions competently and in accordance with the obligations in the building safety certificate.

179. It will be mandatory for a summary of the building safety certificate to be displayed in a prominent part of the common parts of the building, so that occupants can readily identify who is responsible for the safety of their building and the conditions that must be complied with.

Q. 3.17. 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.

180. A person applying to register a building with the building safety regulator will pay a fee to do so. On receipt of a valid application, the building safety regulator will need to process and determine it within a reasonable period. The building safety regulator may require the applicant to provide additional information as it considers necessary for that purpose and may inspect the building and any parts of it. An application will not be valid if the documentation provided does not comply with statutory requirements or if the details on proposed safety management arrangements are insufficient for the building safety regulator to decide on their suitability.

181. The building safety regulator must formally consult with the proposed accountable person and the proposed building safety manager before making a final decision on whether to issue or refuse to issue the building safety certificate, following a consultation with other responsible bodies on their suitability.

Q. 3.18. Do you agree with the principles set out in paragraphs 180 and 181 for the process of applying for and obtaining registration?

182. Registration of a building will be subject to conditions attached to the building safety certificate to ensure statutory and building safety case requirements are met. Conditions will have to relate to the statutory objectives and most will derive from the building safety case and other requirements, which must be submitted with the application for registration.

183. The Independent Review recommended a 'whole building' approach, so we propose that the obligations of the accountable person under the building safety certificate should extend to all parts of the building including, for example, individual flats where they can access them, in so far as they form part of the safety system of the building as a whole and, in the case of complex buildings, parts of the building which are owned by others. The proposed duty on residents to co-operate with the dutyholder will encourage collaboration between residents and the dutyholder in adopting a whole building approach to managing the fire and structural safety.

184. We propose that the conditions set out in the building safety certificate will fall into one or more of the following categories:

185. **Mandatory conditions** – These are the conditions which will apply to all buildings in scope and include the core recommendations from the Independent Review. These mandatory conditions will flow from requirements of the safety case, Resident Engagement Strategy, mandatory reporting and golden thread. Mandatory conditions may include:

- Ensuring those employed in the maintenance and management of the building's safety have sufficient skills, knowledge and experience to meet the building safety requirements;
- Securing and providing sufficient funds and co-operation to ensure appropriate building safety management;
- Establishing or maintaining information management systems to facilitate the ongoing safe management of the building, including provision of the golden thread;
- Operating a safety case regime where risks and mitigations are proactively identified and mitigated;
- Engaging residents in the safe management of their building through a Resident Engagement Strategy including routes of escalation for concerns, and providing required information to residents;
- Ensuring fire risk assessments are undertaken for the whole building and reviewed regularly and any recommendations are undertaken in a timely manner;
- Establishing and operating a mandatory occurrence reporting regime.

186. **Voluntary conditions** – These would be proposed by the accountable person as additional conditions under which they will operate to mitigate identified safety risks. These volunteered conditions will be agreed with the building safety regulator.

187. **Special conditions** – These will be imposed by the building safety regulator and will be specific, measurable time bound. These could be imposed as a result of an industry-wide issue or because the building safety regulator feels there are specific risks within a building that the accountable person must act on. A special condition can include a requirement which goes beyond that which the accountable person had volunteered to do.

188. Breach of the conditions set out in the building safety certificate may have significant consequences for the accountable person. These are set out in Chapter 6.

189. We propose that there will be right of appeal against special conditions that the building safety regulator decides to attach to the building safety certificate.

Q. 3.19. 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.

Q. 3.20. Do you agree with the types of conditions that could be attached to the building safety certificate? Please support your view.

190. We propose that the duration of the building safety certificate matches the duration of the safety case, which is likely to be a maximum of five years but may vary depending on the nature and risk of the building. Registration must be renewed when the safety case is reviewed, such that the new registration certificate will reflect the requirements of the new safety case.

191. The building safety regulator may at any time decide to review the building safety certificate, on its own initiative or if requested to do so by the accountable person, building safety manager, an interested party, such as the occupants, or a responsible authority where evidence supports this. The building safety regulator must consult with interested parties and responsible authorities as part of a review.
192. The purpose of a review will be to ensure that the conditions of the building safety certificate are appropriate (in light of any change or new information) and that the accountable person and building safety manager are able to demonstrate they are complying with the conditions of the building safety certificate. Conditions may be removed, altered or introduced as a result of a review. The accountable person and building safety manager will have a right of appeal against the outcome of the review.
193. As part of the review, if the building safety regulator is satisfied that the building safety manager has undermined the statutory objective, we propose the building safety regulator can require the accountable person to appoint another building safety manager agreed by the building safety regulator.
194. The accountable person and building safety manager will have a right of appeal against a decision of the building safety regulator to remove the existing building safety manager.

Q. 3.21. Do you agree with the proposals outlined for the duration of building safety certificates? If not, please support your view.

Q. 3.22. 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?

Part C - Duties that run throughout a building's life cycle

195. There are three key areas where duties recommended in the Independent Review span the full lifecycle of the building: the golden thread of information; raising concerns (including mandatory occurrence reporting); and the competence of dutyholders. This section sets out our proposals for each of these in turn.

The golden thread of information

196. We propose that the golden thread of information recommended in the Independent Review should operate through the whole lifecycle of a building, from design through to occupation. The Government believes that a golden thread of accurate and up-to-date information about the design, construction and ongoing maintenance of residential buildings in scope is necessary to support building safety. As set out in the sections on dutyholder responsibilities, the dutyholder (in design and construction) or accountable person (in occupation) will have to comply with the specific regulatory requirements imposed upon them. This will include the requirements around golden thread set out below.
197. The golden thread will use digital tools and systems to enable this information to be stored and used effectively to ensure safer buildings. It will support the gateways process, building registration process and the safety case approach (set out earlier in this chapter) by recording the original design intent and ensuring subsequent changes to buildings are captured and preserved. The golden thread will also make information easily available to the right people at the right time.
198. This section describes our proposals for a golden thread and sets out the principles and features that will be standard across a building's life cycle, including the digital standards, the key dataset, and openness and transparency. It sets out some specific detail about the golden thread in design and construction and in occupation.
199. We propose the introduction of a golden thread of information that will support building safety through the whole lifecycle of a building as part of the wider system reforms and will:
- Enable dutyholders and accountable persons to collect, store, and update data and information in a digital format, so they can use this information to ensure building safety. A building owner needs to have up-to-date information to be able to easily and effectively manage building safety across the life cycle of their building and to manage any changes that could have an impact on building safety;
 - Enable all those working on the building to have the information they need to ensure those buildings are safe, from initial design to occupation;
 - Provide assurance to the building safety regulator that the building is safe and to enable that regulator to make timely and effective decisions to ensure building safety;

- Encourage and support culture change in the sector – through driving greater openness, transparency and accountability for safety.
200. The content of the golden thread will be based on the information and data required through the gateway points (for buildings through design and construction) and through the building safety registration process and the safety case (for existing buildings and buildings in occupation). More detail is set out below.

Digital standards

201. We propose that the information and data required must be stored in a digital format (stored and accessed through a computer or other electronic device) and have particular characteristics, which the Government will define in more detail through guidance. Whilst we do not plan to mandate that particular software is used to store information as part of the golden thread, we may choose to mandate that the golden thread of building information complies with Building Information Modelling (BIM) standards.⁴⁴ Government guidance would then refer to BIM standards. We will consider, following responses to the consultation, what, if any, further guidance would be necessary beyond referring to the BIM standards. Building Information Modelling (BIM) is a process for creating and managing digital information throughout construction and across the whole lifecycle of a building. BIM makes it easier to keep a log of any changes to the design of a building and an accurate record of the products and materials used in the building. Mandating BIM would make best use of ongoing work to promote digitalisation in the construction industry, consistent with other Government and industry initiatives such as the Transforming Construction programme and the Construction Sector Deal⁴⁵. We expect that the golden thread will require the use of a common data environment that will allow different parties to work collaboratively on developing and maintaining the information. We anticipate that the guidance will need to be regularly reviewed and updated, due to technological advancements (such as developments in digital systems, capabilities and formats) and improvements in building safety.

Q. 4.1. 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.**

⁴⁴ Standards for the use of Building Information Modelling, including BS 1192, PAS 1192 and BS EN ISO 19650 suite of standards for design and construction, and BS 8536 suite of standards and upcoming BS EN ISO 19650-3 standards for occupation.

⁴⁵ https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/731871/construction-sector-deal-print-single.pdf

Q. 4.2. Are there any standards or protocols other than Building Information Modelling (BIM) that Government should consider for the golden thread? Please support your view.

Case study – MHCLG Early Adopters

L&Q are adopting BIM so that everyone within L&Q is able to access information about their schemes quickly and easily and know that the information is accurate. Some call this having access to a 'Single Source of Truth'. The types of information include drawings, 3D models, reports, Health & Safety files, cost and environmental data. As a result of adopting this approach L&Q believes that there will be benefits across their business.

L&Q have committed to delivering 100,000 new homes, however, development on such a scale required reviewing their current working practices to ensure that they are able to provide quality homes that can be delivered safely, on time and on budget. They found that the current ways of working within L&Q were no-longer sustainable or scalable to meet future needs and more efficient ways of working needed to be found. L&Q consider that implementing Building Information Modelling (BIM) Best Practice will help to address this need and will reduce project risk, reduce design and delivery timeframes, and reduce project cost. Better asset information will also help reduce cost of asset management, and the greater availability of information will support improvements in service delivery leading to improvements in customer satisfaction.

L&Q are now in the process of delivering their first projects using BIM.

Key dataset

202. The golden thread is focused on assuring the safety of individual buildings. However, the building safety regulator will also need to understand characteristics of all buildings in scope to analyse and understand trends and risks across the building stock, and to perform the proposed functions listed at paragraph 315. To enable analysis of key characteristics across buildings in scope, we are also proposing a 'key dataset' be maintained through the lifecycle of the building. This dataset will be a subset of the information contained in the golden thread. This could include:
- Unique building identifier;
 - Location;
 - Size (e.g. height, storeys, footprint, number of dwellings);
 - Building type/purpose;
 - Years built and refurbished;
 - Minimal information (e.g. quantity and location) on safety-related features (e.g. fire doors, sprinkler systems). Identification of which products should be included in the dataset will be based on the individual physical layers of protection that each form part of an integrated safety strategy for the building;
 - Façade and structure information;

- Dates and outcomes of gateway points and safety case reviews;
- Current and past dutyholders, accountable persons and building safety managers.

Q. 4.3. 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.

203. Unlike the rest of the golden thread, the key dataset will need to be held in a specified format. The Government intends to mandate compliance with detailed data standards that will specify the formats and naming conventions for the variables in the key dataset and the file format(s) in which the dataset should be shared. This will enable data from different buildings to be joined together to form one file containing comparable data for all the buildings in scope. We expect that the key dataset will be a standard spreadsheet or database format.

Openness and Transparency

204. We propose that a subset of the information in the golden thread, in the form of the key dataset, should be open and accessible by default. Open and transparent information will enable residents, the building safety regulator and Parliament to hold dutyholders to account. We propose to follow the principles of security of information set out in Centre for Protection of National Infrastructure's (CPNI) guidance⁴⁶ and BIM standard⁴⁷, and that the sharing of this information will be done in a security-minded way. The key dataset will not contain information that would compromise the safety of buildings and their residents, privacy of residents, or any intellectual property rights.

Q. 4.4. 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.

205. Residents will be entitled to obtain detailed information about the safety measures in their building (see Chapter 4) if they wish, subject to security considerations. Making information publicly accessible at all times (not just to residents) would contribute to transparency and openness within the sector. We would therefore encourage dutyholders and accountable persons to make appropriate information open that would not undermine security, according to the principles set out in CPNI guidance.

206. However, we are aware that some of the information in the golden thread cannot be made open for security reasons. Due to the potential formats of some information (for example, drawings or PDF files) it would be difficult to redact information or share only portions of it. Some information will be technical and not informative for the general public. Furthermore, we judge that the purpose of the golden thread – to support building safety by ensuring information is available to

⁴⁶ <https://www.cpni.gov.uk/digital-built-assets-and-environments>

⁴⁷ PAS 1192-5:2015

the right people at the right times – can be met without the need for dutyholders to make their golden thread open to the public.

207. For these reasons, we do not propose to mandate that the information in the golden thread be publicly accessible at all times, apart from the key dataset as described above.

Q. 4.5. Do you agree with the proposals relating to the availability and accessibility of the golden thread? If not, please support your view.

Golden thread in design and construction

208. In the design and construction stage, the content of the golden thread will consist of the information and data collected as the building passes through the gateway points (see section in Chapter 3 on gateways).

Q. 4.6. 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.

209. The Government is aware that once construction is completed there can be significant issues around lack of handover of information to commence the occupation stage and has produced previous guidance⁴⁸ to assist with this. The golden thread needs to be handed over in a format that is useable by parties involved (for instance facilities management companies), as this information will be central to the safety case in occupation and safe running of the building. The Government is considering whether providing additional guidance would enable an efficient process through which construction and occupation dutyholders and accountable persons agree the digital format in which the golden thread will be provided at handover.

Q. 4.7. 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.

Golden thread in occupation

210. In occupation, the information that is included within the golden thread will be different for new and existing buildings. For new buildings that have been through the gateway process, the golden thread will initially be comprised of information collected through the gateway points, during the design and construction phase. As set out in the section in Chapter 3 on the safety case, the information collected through the gateway process will be a central part of the information required to build and evidence the safety case in occupation and to ensure the safe running of the building.
211. For existing buildings in scope, the content of the golden thread will be started during the building safety registration process, and its creation and maintenance

⁴⁸ <https://www.cdbb.cam.ac.uk/Resources/Bimtaskgroupmaterial/GovernmentSoftLandingsExecutiveSummary.pdf/view>

will be a mandatory condition of the building safety certificate. During the occupation stage for both new and existing buildings, the information that will be added to the golden thread will be the information required to build and evidence the safety cases.

Q. 4.8. 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.

212. We expect that producing a golden thread for existing buildings will take longer to implement, as information on these buildings may be difficult to find and access. We propose that compiling the key dataset should be the priority and expect to require that this be created and submitted as part of the building safety registration process.

Raising concerns and learning from mistakes

213. The best systems of oversight and regulation ensure that the people operating within them learn from their mistakes, without fear of blame or retribution. Effective reporting systems will be crucial to trust in the new building safety regulatory system, to development of a safety-focused culture in the sector, to better understanding of safety risks and issues and, ultimately, to safer buildings.
214. Dame Judith recommended the implementation and expansion of three reporting schemes:
- a) A system of mandatory occurrence reporting to the building safety regulator should be implemented for all higher risk residential buildings;
 - b) That the regulator should be a prescribed person under the Public Interest Disclosure Act (PIDA) 1998, providing additional protection to workers who report concerns to the building safety regulator about illegal wrongdoing; and
 - c) For all buildings the current Confidential Reporting on Structural Safety (CROSS) scheme should be extended and strengthened.
215. Government believes that effective establishment, operation and support of these reporting systems will be crucial to trust in the new regulatory system, to development of a safety-focused culture in the sector, to better understanding of safety risks and issues and, ultimately, to safer buildings.

Mandatory occurrence reporting

216. There is currently no mandatory or legal requirement on people involved in the construction in multi-occupied residential buildings of 18 metres or more to report building safety critical issues with the result that valuable opportunities for learning, as well as information gathering and analysis that would contribute to the overall health of the system, are missed. We propose implementing a system of mandatory occurrence reporting to the building safety regulator for all buildings in scope of the new regime. Mandatory occurrence reporting already operates in other sectors where safety is critical, such as the aviation sector, and we have used these schemes as a model for our proposals.

217. We propose there will be a legal responsibility on the Client, Principal Designer and Principal Contractor during design and construction and the accountable person during occupation to establish a reporting mechanism internally and report specific occurrences (which will be set out in legislation) to the building safety regulator. Compliance would be assessed frequently through regulator analysis of reports, interventions, 'gateway points' during design and construction and 'safety case reviews' during occupation. Where dutyholders fail to meet their obligations under mandatory occurrence reporting, this will be seen as non-compliance and the building safety regulator will intervene. Our proposals for enforcement and sanctions are covered in Chapter 6.

Q. 4.9. 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.

218. We recognise that for a mandatory reporting regime to be effective, workers must have confidence to report safety concerns without fear of blame; that their confidentiality will be maintained; and that the information they report will be acted upon. This culture is often referred to as a 'just culture' by other sectors and is defined as:

*"a culture in which front-line operators or other persons are not punished for actions, omissions or decisions taken by them that are commensurate with their experience and training, but in which gross negligence, wilful violations and destructive acts are not tolerated"*⁴⁹.

Q. 4.10. 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.

219. The building safety regulator will analyse the reports and use this to disseminate information on sector-wide safety issues and the measures they have taken as a result. The regulator would not intervene as a result of a report, unless an occurrence is particularly serious or the dutyholder is not taking appropriate steps to manage and mitigate it.

220. We propose to implement a timeframe in which an identified mandatory occurrence report should be submitted to the building safety regulator. Mandating a timeframe for submitting reports ensures the building safety regulator has the most up to date information to help inform its overall intelligence picture and encourages individuals to report as and when a safety issue occurs. This approach reflects best practice from other regulatory regimes. Seventy two hours is the most common timeframe in other industries and we are interested in views on whether this timeframe would be appropriate here.

⁴⁹ EU legislation: REGULATION (EU) No 376/2014. <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32014R0376&rid=8>

Q. 4.11. 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?

221. We are proposing that the scope of occurrences which would need to be reported should focus on fire and structural safety concerns, as evidence shows us issues in these areas are most likely to have a significant impact on life safety.

Q. 4.12. 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?

222. We propose to set out a prescriptive list of specific occurrences, with associated definitions, which the dutyholder must report to the building safety regulator. We intend to set these out in legislation or statutory guidance. Below are overarching categories alongside some examples of what could be reported under a mandatory occurrence reporting scheme.

Overarching Categories	Examples of specific occurrences
Occurrences relating to construction products	Substandard products delivered to site with fire or structural safety implications
Occurrences relating to construction practice and poor workmanship	Defective installation of fireproofing
Occurrences relating to the maintenance of the building structure or fabric	Early or unexpected decay of structural components
Occurrences relating the operation of construction products	Unexpected failure of safety critical components such as a fire door.
Occurrences relating maintenance of fire protection systems	Defects or failure in passive or active fire protection systems
Occurrences relating the operation the building safety procedures	Partial or total failure of emergency fire systems
Occurrences relating to a major event	Major damage due to an extreme event (fire)

Q. 4.13. 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.

Q. 4.14. Do you have any suggestions for additional categories? Please list and support your view.

223. We are currently considering, and trialling with Early Adopters, whether the proposed system of mandatory occurrence reporting would work in the design stage of buildings in scope. We will be considering the results of this trial over the

coming months and are interested in respondents' views on whether this approach can be effectively applied during the design stage due to its iterative nature.

Q. 4.15. 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.

224. The Health and Safety Executive (HSE) operates a system of reporting for the Reporting of Injuries, Diseases and Dangerous Occurrences (RIDDOR), which shares similarities with the system of reporting we propose here. RIDDOR puts duties on the responsible person to report certain serious workplace accidents, occupational diseases and specified dangerous occurrences (near misses). We intend to avoid overlap in the required reportable occurrences to each scheme to avoid unnecessary duplication of reporting but propose relevant information from RIDDOR reports would help inform the building safety regulator's oversight.

Case Study – MHCLG Early Adopters

Salix launched a pilot in January, introducing a reporting system across 18 of their buildings in Salford. The pilot buildings are currently in occupation, with some undergoing refurbishment. Salix have promoted the reporting of building safety concerns at their High-Rise Forums and have provided a number of routes for workers, contractors and residents to report safety concerns. Thus far, reports have been received from employees and residents about a number of building safety concerns, including damage to fire doors and false fire alarm activation. **Salix** will be also be piloting reporting on their new-build project in association with **Willmott Dixon**. **Peabody** have also launched a reporting pilot in a number of their buildings; four in occupation, two in design and one in construction. The outputs from these pilots will assist us in defining the list of specific occurrences which should be reported during the design, construction and occupation of a building. We are using the information from these reports to help us: refine the list of occurrences which should be reported to the building safety regulator, test how a system of reporting works in practice, receive feedback around approaches to culture change and develop case studies to share with wider industry

Whistleblowing

225. To afford workers protection when reporting formal concerns to the building safety regulator about wrongdoing, we propose the building safety regulator becomes a prescribed person under the Public Interest Disclosure Act 1998 (PIDA). The legislation provides protections from detrimental treatment or victimisation from their employer to workers making disclosures in the public interest. This is more commonly known as whistleblowing protections.

Q. 4.16. 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.

Wider reporting approaches

226. Structural-Safety works with the industry on safety matters concerned with the design, construction and use of structures. There are two parts to Structural Safety: The Standing Committee on Structural Safety (SCOSS), a committee established to maintain a continuing review of building and civil engineering matters affecting the safety of structures, and Confidential Reporting on Structural Safety (CROSS), a confidential safety reporting scheme established to capture and share lessons learned which might not otherwise have had formal recognition.
227. Structural-Safety maintains a database of reports and publications, provides expert comment on the reports they receive, promotes a positive attitude to learning from experience and helps to influence changes to improve structural safety.
228. CROSS collects voluntary reports on structural safety issues within the sector. They look for pre-cursors which might result in failure or catastrophe in similar circumstances if not addressed. The information from reports is translated into safety updates and learning which is disseminated to industry through SCOSS updates and CROSS newsletters.
229. We are working with SCOSS to support the expansion of CROSS to extend the reporting system to cover fire engineering safety concerns on all buildings, alongside their current operating system on structural safety issues. Reports will cover all buildings, not only those in scope of the new building safety regulatory system. Information from these reports will help inform the building safety regulator of safety issues wider than their scope of regulation and contribute to the intelligence picture built by the building safety regulator. Strengthening this existing reporting system, ahead of the implementation of a system of mandatory occurrence reporting, will increase awareness of building safety concerns, facilitate sharing of learning across the sector and, ultimately, the outputs of all reports will contribute to a sector-wide intelligence picture of safety concerns.
230. The outputs of reports from all routes (mandatory occurrence reporting, whistleblowing and CROSS) will facilitate sharing of learning across the sector and contribute to a sector-wide intelligence picture of safety concerns. This rich data source can be used to inform future policy decisions, for example on where additional guidance may be required.

Ensuring dutyholders have the competence to do the job

231. Dutyholders will have a responsibility to ensure that those they appoint have the necessary skills, knowledge and expertise to discharge their functions effectively. At the same time, dutyholders offered an appointment must not accept unless they have the relevant skills, knowledge, experience and behaviour to ensure that their work promotes compliance with building regulations. Where an organisation is the dutyholder this must include evidence of the organisational capability to undertake this role.

232. The industry-led Competence Steering Group was established to develop proposals for an overarching system to oversee competence requirements for buildings in scope. Their proposals are set out in more detail in Chapter 5. As part of their proposals the Group has identified three roles, the Principal Designer (for the design stage), the Principal Contractor (for the construction stage) and the building safety manager (for the occupation stage) as key roles to the success of the new building safety regulatory system. This recognises that these roles are pivotal in ensuring safety and require an additional set of skills and knowledge in relation to their overarching role to ensure that the design intent of the building is maintained and that workers employed and used in design, construction, refurbishment, maintenance and operation are suitably competent.
233. The Group has recommended that these competencies, focusing on an overarching understanding of all aspects of building safety and the impact of construction works or in-use activities on the design intent throughout the life-cycle, skills of interrogation and the ability to identify major hazards and minimise the risk to safety during operation, be developed by industry and other experts and maintained as part of the suite of national standards that comprise the overarching competence framework under the stakeholder-led governance of the national standards body. New training and qualification for the enhanced competence requirements can then be developed by market providers which should be accredited by UKAS or other suitable body.
234. Those who are qualified for this “role-specific” special competencies standard, in addition to any other relevant professional standards, could be registered as competent. Where an organisation is contracted to take on these key roles, there should be a nominated individual within the organisation registered as competent. The Group has proposed that the register of competent Principal Designers, Principal Contractors and building safety managers is held and maintained by the building safety regulator. We discuss the functions of the building safety regulator in Chapter 5.

Q. 4.17. 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.

Going further – strengthening duties and extending elements

235. The reforms described in this chapter so far are based on those recommended in the Independent Review. Our listening exercise, analysis and policy development with stakeholders suggests some ways in which we could go further in our requirements of dutyholders.

The building safety regulator’s statutory objectives and the general duty

236. The Independent Review recognised that delivering better buildings also required a cultural shift, with all actors in the system seeking to deliver safe buildings, not merely ticking compliance boxes.

237. We are considering underpinning the statutory powers and functions of the building safety regulator with a series of statutory objectives, one of which could be to promote building safety and the safety of people in and about buildings. We intend that in imposing requirements on, or in taking enforcement action against dutyholders, the building safety regulator must have regard to the extent to which this statutory objective would be met, ensuring the regulator's actions are justifiable and proportionate.
238. We are also considering placing all dutyholders (including those we call the accountable person in occupation) under a duty to promote building safety and the safety of people in and around the building. This general duty would apply, in addition, to any specific duties, obligations or conditions that are required of the dutyholder. It would enable dutyholders to demonstrate they are proactively managing (as a whole) the safety of their buildings, and not simply taking a reactive approach or ticking boxes – in discharging their responsibilities they will need to demonstrate how they are promoting building safety in everything they do, not just ticking off the bare minimum to show they have met their responsibilities.
239. Our intention in creating the general duty is to ensure that the building safety regulator and dutyholders work towards the same goal: ensuring safety of residents.
240. Through the statutory objective and general duty requirements we want to go further than the Independent Review proposed. This approach will ensure a whole building and single dutyholder approach is more readily achieved and residents' safety is better secured.

Q. 4.18. 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.

Q. 4.19. 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.

Extending dutyholder roles to all building work

241. We have already stated our intention to introduce dutyholder roles in design and construction to residential buildings over 18 metres in height to clarify the link between those who are accountable and compliance with building regulations. However, we recognise that the clarity over accountability for building safety and compliance with building regulations is important across all building work.
242. The Construction (Design and Management) Regulations 2015 (CDM) which clarify accountability for health and safety on construction sites already introduce the concept of dutyholders across all construction work. As we intend to model our approach to dutyholder roles after these regulations we are mindful that we should, where appropriate, align our requirements. We are therefore considering whether we should introduce dutyholder roles, which provide greater clarity over accountability for building safety and compliance with building regulations, to all building work.

243. We believe that there are a number of benefits which could be realised by taking this approach. For example, having a consistent accountability framework for all construction work provides a clear operating environment to designers and contractors who may work on a mixture of different residential, commercial and civil projects. As the Construction (Design and Management) Regulations 2015 (CDM) already introduce the concept of dutyholders, and we would be looking to clarify accountability rather than placing burdensome responsibilities on all building work, we do not believe this would represent a significant additional burden on the development stages, whilst providing the clarity of accountability the Independent Review showed was so important.

Q. 4.20. 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.

Chapter 4

Residents at the heart of a new regulatory system

244. This chapter sets out how residents will be empowered in the new building safety regime. It sets out our proposals for how the accountable person, through their appointed building safety manager, will ensure that residents receive the information they need in a clear and accessible format. It describes the requirements for the accountable person's building safety manager to put in place an open and transparent Resident Engagement Strategy, which will be a mandatory condition of the building safety certificate. It also sets out proposals for how we can make sure that residents play their part in keeping their building safe and for a clear and quick escalation route for residents' building safety concerns.
245. The safety of residents is of paramount importance and the Government is determined to ensure that the views and interests of residents are at the heart of the new building safety regulatory framework. We know that some residents feel that they are not listened to when it comes to the safety of their home or the building they live in. It is crucial that Government ensures that the views and concerns of residents can never be ignored by those responsible for managing the safety of their buildings.
246. To bring about this culture change, the Government is already taking steps to strengthen the position of residents across all residential buildings through:
- The Social Sector (Building Safety) Engagement Best Practice Group⁵⁰ which began meeting on 29 April 2019. This is a group of social landlords and residents who are trialling options for engaging with residents on building safety issues and considering how they could be applied to other housing tenures;
 - Developing the new Housing Complaints Resolution Service to provide a single point of access for residents of any tenure to the right help when things go wrong;
 - Ensuring that purchasers of new build homes have more effective access to redress by announcing proposals to ensure that a New Homes Ombudsman is established working with industry and others. The Government will consult on the detail of the proposed legislation, including whether a Code of Practice should also be underpinned in statute;
 - The Homes (Fitness for Human Habitation) Act 2018, which gives tenants additional rights to seek redress through the courts.
247. While all residents will ultimately benefit from these changes, we also recognise that additional regulatory oversight is required for multi-occupied residential buildings of 18 metres or more. The new building safety regulatory framework described in Chapter 3 includes proposals for a clear accountable person responsible for the safety of these buildings and the appointment of a building

⁵⁰ <https://www.gov.uk/government/groups/social-sector-building-safety-engagement-best-practice-group>

safety manager for these buildings. In addition, it is essential that we create a system where residents feel that they are listened to by those responsible and able to hold them to account.

248. To achieve this step change in resident involvement, we are inviting views on a proposal to require accountable persons (through their building safety managers) to:

- **Proactively, rather than just on request, provide residents with the information they need** in a clear and accessible format so that they understand the protections that are in place to keep their building safe;
- **Provide residents with more detailed information on building and fire safety on request;**
- **Engage with residents through developing and implementing a Resident Engagement Strategy.** By developing a culture of resident engagement, we will ensure that residents are empowered to play an effective role in making sure that their building is, and remains, safe. This includes identifying and reporting hazards that may impact on the safety of the building and meeting their responsibilities to ensure their own safety and that of their neighbours;
- Address residents' concerns about fire and structural safety and ensure that they are resolved, with residents being able to use a **clear route of escalation** if their safety concerns are not being dealt with effectively.

249. We have engaged with residents directly to help us understand more about their views and concerns:

- We have tested proposals with the Residents' Reference Panel⁵¹ who brought with them their direct experiences of living in higher rise buildings and provided scrutiny and challenge to our thinking;
- We have run focus groups that explored residents' feelings of safety in higher rise buildings, and what can be done to help residents feel safer; and
- For social housing residents, our extensive stakeholder events and consultation on the Social Housing Green Paper raised similar issues about resident participation in decision-making, feelings about safety, the importance of genuine engagement and effective complaints handling.

250. We propose that the requirements in this section will apply to multi-occupied residential buildings of 18 metres or more, in both the social and private sectors in the first instance (as set out in Chapter 2). However, we expect the impact of these reforms to be felt more widely as good practice spreads and other building types take on building safety reform as best practice. In occupation the Fire Safety Order provides the framework for fire safety standards for workplaces, (including hospitals, prisons and residential education settings such as boarding schools) and the Fire Safety Order call for evidence, launched today, considers how we can keep staff, patients, offenders, students and visitors safe in these buildings.

251. We recognise that many landlords and building managers have always maintained high standards with respect to resident engagement and that an

⁵¹ A focus groups of residents of high-rise residential buildings who have met quarterly to discuss policy proposals with MHCLG officials

increasing number have reviewed their own standards following the Grenfell Tower fire. The Government will continue to encourage industry to go beyond the minimum standards set out in these proposals. We are doing this through the Social Sector (Building Safety) Engagement Best Practice Group.

Information provision to residents

252. Our proposal is that the accountable person will be responsible for ensuring that residents are provided with the information they need to help them understand the protections that are in place to keep their building safe. Residents will also be entitled to obtain further and more detailed information about the safety measures in their building if they wish.

Core information which all accountable persons will be required to provide

253. Every building is different. Therefore, the amount and type of information that can be provided will vary. However, we want to ensure that the information provided is sufficient, relevant and can be used by residents. As a minimum the following information should be provided to residents in an understandable way:
- a) Measures in place to mitigate potential fire and building safety risks to residents, e.g. fire precautions;
 - b) How to reduce the risk of fire in individual dwellings e.g. by not storing flammable materials;
 - c) Process for reporting a fire risk and/or raising any other safety concerns;
 - d) Procedures to follow where a fire occurs in the building, including for evacuation;
 - e) The different roles and responsibilities of the accountable person, building safety manager and residents;
 - f) Key information from the Resident Engagement Strategy e.g. contact details of the accountable person and Building Safety Manager.

Q. 5.1. 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.

254. Where necessary, the accountable person will need to make proportionate special provision for residents who may be vulnerable or have additional needs. For example, residents who have a physical or visual impairment, have other disabilities or who do not speak English.
255. We do not propose to prescribe the format in which most of this information must be provided, or how it is presented to residents. However, guidance will be provided on how best to do this.

Culture of openness

256. We know that some residents may wish to access more detailed information so that they can better understand the safety features of their building. Doing so may help them to use the safety features appropriately and also hold the accountable person and building safety manager to account. Therefore, the Government will also introduce a new requirement on accountable persons/building safety managers to provide a range of more detailed information to residents on request.
257. The accountable person and building safety manager will be expected to adopt a culture of openness. Under this approach, there will be a presumption that all relevant information about a building should be available to residents, but there will be exemptions (see paragraph 260). We expect that all information provided on request should be made available digitally, unless hard copies are requested.
258. Examples of information a responsible person must make available on request may include:
- Full, current and historical fire risk assessments;
 - Planned maintenance and repairs schedules;
 - Outcome of building safety inspection checks;
 - How assets in the building are managed, e.g. frequency of lift maintenance;
 - Details of preventive measures, e.g. smoke alarms;
 - Fire protection measures in place, e.g. sprinklers, fire extinguishers;
 - Information on the maintenance of fire safety systems;
 - The fire strategy for the building;
 - Structural assessments; and
 - Planned and historical changes to the building.
259. The accountable person will be required to have a process in place for dealing with requests for information. This will include timescales for responding to requests. The process will also need to enable vulnerable residents to nominate an advocate, care-giver or representative who can request more detailed information on their behalf.

Exemptions

260. We intend to require that building safety information is open and accessible to residents by default. However, not all information can be divulged. We propose adopting the same approach to the release of information as for the golden thread and following the principles of security of information set out in the Centre for Protection of National Infrastructure (CPNI) guidance. This means that information would not be released where doing so would compromise the safety of buildings and their residents, privacy of residents, or any intellectual property rights.

261. Residents will have the right to appeal to the building safety regulator if they do not think that exemptions have been used in the correct way.

Q. 5.2. 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.

Q. 5.3. 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?

- a) Relative,
- b) Carer,
- c) Person with Lasting Power of Attorney,
- d) Court-appointed Deputy,
- e) Other (please specify).

Requirements for a Resident Engagement Strategy

262. Residents' rights to information will be underpinned by a requirement on the accountable person to produce and run a comprehensive Resident Engagement Strategy. The accountable person, through their appointed building safety manager, will have to work in partnership with residents to ensure that they are involved in decisions about their building's safety.

263. We propose that the Resident Engagement Strategy should have two parts:

- a) A management summary setting out how the accountable person will deliver resident involvement and participation in their buildings. and their approach to communication and to measuring the success of their resident engagement;
- b) An engagement plan for residents setting out how the strategy will work in practice in their building, what residents can expect by way of communication and how they can get involved and raise concerns.

264. The production and delivery of a Resident Engagement Strategy would be one of the mandatory conditions for the building safety regulator to issue a building safety certificate, which will allow the accountable person to be approved to manage the building.

265. The building safety regulator would review, approve and sign off the Engagement Strategy as part of:

- a) issuing the certificate under gateway three for new buildings; and
- b) approving the safety case for existing buildings.

266. A copy of the strategy would be retained by the building safety manager as part of the golden thread of information for that building. The Strategy should be reviewed as part of all future reviews of the building safety case, and when the building safety regulator investigates concerns that the Strategy is not being put into practice.

267. Once the building safety certificate has been issued the building safety manager would be responsible for:
- a) delivering the engagement plan on a day-to-day basis, as the first point of contact for residents;
 - b) providing the engagement plan to all residents to ensure that they understand how they can get involved in decision-making about the safety of their homes; and
 - c) providing residents with updates to the plan as and when required.
268. Where necessary, the accountable person would need to make proportionate special provision for residents who are vulnerable or have additional needs, for example, residents who have a physical or visual impairment, have other disabilities or who do not speak English.
269. The **management summary** will need to set out as a minimum:
- a) Overall aims and objectives of the Strategy, and how those responsible for it will demonstrate commitment to genuine resident engagement and participation.
 - b) The approach to:
 - Communicating with residents, including the various channels in which different information will be shared;
 - Complaints handling, covering the building safety issues which are the responsibility of the building safety manager;
 - Resident participation in decision making and how they will encourage resident involvement;
 - What steps they will take to ensure that they take account of the diverse needs of their residents;
 - How they will measure the success of the strategy, the satisfaction of their residents and demonstrate a commitment to continuous improvement;
 - Where there are instances of intermediary landlords between residents and accountable persons, how the building safety manager will make sure there is effective cooperation on building safety.

Q. 5.4. Do you agree with the proposed set of requirements for the management summary? Please support your view.

270. The **engagement plan** will need to set out as a minimum:
- a) The roles and responsibilities, and contact details, of those responsible for the safe management of the building;
 - b) What communication and engagement residents can expect from their building safety manager, how often, and how residents can then get more involved if they want to;
 - c) How the building safety information outlined in paragraph 253 will be proactively provided to residents;

- d) How residents can access the information that they are entitled to see on request as outlined in paragraph 258;
 - e) Details of the internal complaints process and how issues can be escalated where the accountable officer is unable to resolve the issues as set out in paragraphs 282 to 284;
 - f) How the building safety manager will report the results of safety case reviews and other safety checks to residents; and
 - g) How the building safety manager will measure the effectiveness of their resident engagement.
271. The Resident Engagement Strategy may be provided as a single document or as part of a wider document for new and existing residents (for example as part of a tenant handbook). Guidance will be produced that will provide more information on how to comply with the requirements.

Q. 5.5. Do you agree with the proposed set of requirements for the engagement plan? Please support your view.

Proposals for residents' responsibilities

272. Residents have an important role to play in helping to support and, where needed, hold the accountable person to account with regards to the fire and structural safety of their home and building. When these issues relate to the internal parts of residents' properties, they can only be delivered in partnership with residents. Our plans for better information provision and more effective resident engagement will help ensure that residents understand the crucial role they have to play in ensuring that they, their neighbours and their building remain safe and the importance of complying with their responsibilities.
273. There are existing 'obligations' placed on residents and landlords defined in tenancy, lease or other contractual arrangements, which set out the roles and responsibilities of residents and the individual(s) that are party to this contract, including health and safety related provisions.
274. Freeholders are obliged to ensure the leaseholder has quiet enjoyment of their property and are normally responsible for maintaining and repairing the exterior and structure of the building, as well as ensuring the building is adequately insured. Leaseholders will normally have a contractual obligation not to make structural alterations to their flat or to seek permissions before any changes are made. They will also usually be subject to conditions restricting the use of the property, such as not using it as commercial premises, or preventing multiple occupation or overcrowding.
275. There are a range of obligations and responsibilities relating to building safety that landlords must comply with in the social and private rented sector. These include keeping properties safe and free from health hazards. Landlords are usually responsible for most repairs and maintaining the structure and exterior of properties. Whilst they have the right to enter a property to carry out inspections and repairs, they must give a tenant reasonable notice in writing before entering the premises. This balances the right of a tenant to live in peace in their home while ensuring private landlords are able to carry out the necessary works to

keep the property and residents safe. Tenants should also look after the property, report any repair issues to the landlord and always seek the landlord's permission before attempting repairs or decorating.

276. Responses to the recent call for evidence on existing good practice on how residents and landlords work together to keep their homes and building safe⁵² suggest that a minority of residents do not fully play their part in ensuring the fire and structural safety of their home and building. In doing so, they could be putting others in and around the building at risk. Seventy-five per cent of landlords and building managers who responded to the call for evidence stated that they had been refused entry to a property on at least one occasion despite having a fire safety concern. This concern was also evident amongst responses from residents, where sixty per cent reported that the behaviour of a small minority of their neighbours sometimes put the safety of their building at risk – a view that was echoed by representatives of the Residents' Reference Panel.
277. One way of addressing these concerns would be to introduce a requirement on residents to cooperate with the accountable person and/or building safety manager. This would be similar to existing requirements that apply to residents in certain types of Houses in Multiple Occupation (HMO) to cooperate with a manager in ensuring the safety of the building.
278. Any new requirements on residents would need to be specific to fire and structural safety and relevant to the ability of accountable persons or their agents to fulfil their duties under the new regime. They could, for example, include residents providing reasonable information on works carried out to their property and providing reasonable access by allowing the accountable person or building safety manager to inspect and carry out necessary works (such as fitting fire alarms) or undertaking fire and structural safety-related maintenance. Where information or access is required, the accountable person or the building safety manager will provide the resident with reasonable notice.

Q. 5.6. 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.

Q. 5.7. What specific requirements, if any, do you think would be appropriate? Please support your view.

Q. 5.8. 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?

⁵² <https://www.gov.uk/government/consultations/good-practice-on-how-residents-and-landlords-work-together-to-keep-their-home-and-building-safe-call-for-evidence>

Clear and quick escalation route for residents' building safety concerns

279. Dame Judith's Independent Review reported that whilst some residents felt that they had good relationships with the owners and managers of their buildings and that clear systems for reporting safety concerns were in place, there were also numerous cases where residents felt unable to effectively escalate safety concerns.
280. The Independent Review also identified particular fire safety and structural risks related to high-rise residential buildings that need to be managed and mitigated to ensure that residents are safe, and feel safe, in their homes. A key part of achieving that is making sure that residents are able to escalate safety issues quickly to the accountable person, to enable to them to be investigated and addressed. Where that does not happen, residents then need a clear escalation route that enables issues to be quickly directed to the right place for action and resolution.
281. This section sets out proposals for how residents would raise safety concerns and, where their accountable person fails to investigate and address them, how residents would escalate concerns to ensure that the right action is taken to keep them safe.

Internal process for raising safety concerns

282. As part of the effective management of the buildings in scope and to make sure accountable persons are responsive when residents raise safety concerns, the Resident Engagement Strategy will need to include details of how residents raise safety concerns with their accountable person. As set out in paragraph 265 the Resident Engagement Strategy will be assessed and reviewed as part of meeting the requirements of the building safety certificate for that building.
283. The internal process for raising safety concerns should include:
- How it will handle fire or structural safety concerns with an understanding of the specific risks facing buildings in scope of the new regime;
 - How it will handle other types of concerns that the building safety manager is not adhering to the mandatory conditions of the safety certificate for that building, for example by failing to provide a Resident Engagement Strategy;
 - How to raise a concern, including what information the complainants need to provide;
 - Timescales for initial response, investigations and a final resolution of concerns, recognising the potentially urgent nature of some concerns;
 - Details of how this process and decisions within it will be communicated to residents and handled in a transparent way; and
 - How to escalate concerns to the building safety regulator where they have not been resolved by the accountable person through their internal process for raising safety concerns.
284. In most cases, residents should go through the internal process of the accountable person for raising safety concerns before escalating them to the

building safety regulator⁵³, apart from where failure to act to address the urgent safety concern could lead to injury or loss of life. Examples of urgent safety concerns could include situations where an accountable person has permanently blocked a fire escape that prevent residents from evacuating the building quickly, or defective lift shaft and/or risers that would compromise firefighting facilities. In these circumstances the proposed escalation route set out below could be applied without reaching the end of the internal process. This is because it is important for residents to be protected and for urgent safety issues to be resolved. In these cases, wider investigations by the building safety regulator may follow to consider whether the accountable person's internal process was fit for purpose.

Q. 5.9. Do you agree with the proposed requirements for the accountable person's internal process for raising safety concerns? Please support your view.

Route of escalation

285. A key function of the building safety regulator for buildings in scope is to provide a way for concerns about the accountable person's performance to be raised and resolved. It is important that residents are able to escalate fire and structural safety concerns as quickly and effectively as possible, and that where these concerns have not been resolved a review of the building safety certificate for that building can quickly follow.
286. Where the internal process for raising safety concerns has failed to resolve a fire and structural safety concern, residents in these buildings will be able to escalate them to the building safety regulator.
287. We propose that failure to comply with the building safety regulator would in most cases lead to a formal review of the accountable person's building safety certificate. Residents will also be able to challenge the decisions made by the building safety regulator through a clear and transparent appeals process.
288. Residents may also request a review of the building safety certificate by the building safety regulator where there is evidence that the accountable person is not complying with the condition of their building safety certificate. The building safety regulator will also collect information about concerns raised against individual accountable persons/building safety managers and will act to review the building safety certificate where systemic issues emerge.
289. Where a building safety certificate is revoked the building safety regulator will be able to intervene and fulfil the functions of the accountable person by appointing a building safety manager. These arrangements will stay in place until the building safety regulator is able to grant a new building safety certificate.
290. To ensure that the process is as easy as possible for residents to access and that there is no delay in dealing with safety concerns there should be a 'no wrong door' approach to building safety. If a resident living in a building in scope raises a concern related to fire and structural safety without involving the building safety regulator, for example via existing redress schemes or their local authority, those

⁵³ and/or other responsible authorities who in turn would also report it to the new building safety regulator.

bodies will then escalate the concern to the building safety regulator on the resident's behalf. To prevent residents from having to approach multiple bodies with the same complaint this escalation route will be supported by a **duty to cooperate** between a range of interested parties such as existing redress schemes and other new regulatory bodies. We will be working closely with the various bodies involved in existing processes to ensure a coherent joined-up approach, including existing redress schemes and regulators.

291. For non-fire and structural safety concerns, residents should use existing routes to raise issues, such as via existing redress schemes or their local authority.

Q. 5.10. 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?

Q. 5.11. 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.

292. If you agree please provide your views on how it might work, if not please let us know what steps would work to make sure that different parts of the system work well together.

293. Alongside the action taken to improve the process for raising safety concerns and ensuring that residents in buildings in scope can escalate issues effectively, the Government is committed to making sure residents and consumers in all tenures have access to effective redress when things go wrong with their housing.

294. The Government has also committed to filling the gaps in existing redress coverage by extending mandatory membership of a redress scheme to:

- All freeholders of leasehold properties regardless of whether they employ a managing agent;
- All private rented sector landlords regardless of whether they employ an agent for full management services;
- Developers of new build homes;
- All residential park home site operators;
- Private providers of purpose-built student accommodation.

295. The Government published its response to the Strengthening Consumer Redress in the Housing Market on 24 January 2019 which set out ambitious proposals to simplify access for consumers to redress services and close the gaps in redress to allow more consumers to access redress when complaints remain unresolved. The Government announced proposals for a new Housing Complaints Resolution Service to be established to provide a single point of access to redress services across all tenures. We are aware that other bodies are also dealing with housing or housing related issues which will need to be considered as the new service is developed. The Government proposes to set up a new Redress Reform Working Group to work with redress schemes to focus on developing the new service

working with industry and consumers bodies. More details on the new Working Group will follow in due course.

296. To ensure that purchasers of new build homes have more effective access to redress, the Government has announced proposals to ensure that a New Homes Ombudsman is established, working with industry and others. The Government will consult on the detail of the proposed legislation, including whether a Code of Practice should also be underpinned in statute.
297. All residents, regardless of tenure or building, will still be able to raise safety concerns directly to the relevant enforcement bodies (such as the fire and rescue service or their local authority) via existing routes. The Government is working to ensure that the existing enforcement powers are used effectively in order to better protect residents. This work includes the review of the Housing Health and Safety Rating System (HHSRS), the tool used by local authorities to assess health and safety risks in residential properties which also forms part of the Decent Homes Standard for social housing and the call for evidence on the Fire Safety Order.
298. Residents can also now use the provisions in the Homes (Fitness for Human Habitation) Act 2018 which gives tenants the power to seek redress through the courts if their property is not fit for human habitation. This came into force on 20 March 2019 for new tenancies after that date, and for existing tenancies will come into force on 20 March 2020 or at the end of the fixed term.
299. In the context of our proposed new route for escalation of fire and structural safety concerns for residents in multi-occupied residential buildings of 18 metres or above and the Government's wider work to simplify access to redress, we recognise that there will need to be clear, detailed guidance to support successful implementation and clarify how, when and through whom to access the most appropriate help.

Chapter 5

A more effective regulatory and accountability framework for buildings

Regulation and oversight

300. This chapter outlines our proposals for a stronger system of regulation and oversight. Fundamental to our reforms is the creation of a new **building safety regulator** at the heart of the new regime which goes beyond the recommendations proposed by Dame Judith Hackitt in her Independent Review. The building safety regulator will have responsibility for overseeing design and management of buildings, with a strong focus on ensuring the stricter regime for buildings in scope is enforced effectively and robustly.
301. We also set out proposals from the industry-led Competence Steering Group for oversight of competence, including the establishment of a committee, comprised of relevant industry bodies, independent experts, buildings owners and residents, to provide cross-discipline peer review and challenge to further drive up competence standards for those working on higher risk buildings.
302. Finally, we propose that the oversight and regulation of **construction products** should be strengthened to make manufacturers' responsibilities clearer; and increase market surveillance and oversight, including through a national complaints system; and extend and strengthen independent assurance schemes.
303. Dame Judith recommended forming a number of new regulatory structures to strengthen regulation and oversight of four critical aspects of building safety:
- “The new regulatory regime for higher risk residential buildings would be overseen by a **new Joint Competent Authority**, involving fire and rescue services, Local Authority Building Control and the Health and Safety Executive;
 - The competence of those working on buildings, and particularly higher risk residential buildings, would be overseen by a **new industry-led Overarching Competence Body**;
 - Whether **construction products** are effectively tested, marketed and traced in support of delivering building safety would be overseen by a **new market surveillance body**; and
 - Whether the **building safety and wider regulatory system** – including the above functions - is performing effectively, and how it could be strengthened would be overseen by a reformed **system oversight structure, replacing the current Building Regulations Advisory Committee (BRAC).**”
304. In particular Dame Judith envisaged that the last of these, the system oversight structure, should:

- Validate and assure technical guidance such as Approved Documents;
- Oversee the performance of the built environment;
- Provide expert advice on operational safety and performance issues in the built environment;
- Undertake a periodic review (at least every five years) of the effectiveness of the overall regulatory system and recommend how it could be strengthened (a new function, building on the Independent Review, which had a narrower focus).

Establishing a national building safety regulator

305. In the Implementation Plan, we agreed with Dame Judith's diagnosis and stepped up work to develop a new regulatory and oversight framework.
- We established a Joint Regulators Group (JRG) to advise us on how best to implement the new regulatory regime for buildings in scope of the new regime, including a working group focused on how real or perceived conflicts of interest can be avoided while retaining the experience and expertise of Approved Inspectors in the system;
 - We have worked closely with the industry-led Competence Steering Group (CSG) as they developed proposals for oversight of competence;
 - We have worked with the Building Regulations Advisory Committee (BRAC) to consider Dame Judith's recommendations in detail and to develop proposals for reform.
306. Our work to date with the JRG, CSG and BRAC has found that the functions identified by Dame Judith are the right ones and there are several options for how the stricter regime for buildings in scope could be delivered on the ground. In this work, we have also looked to answer the challenge from Dame Judith who recognised that the systemic issues affecting high-rise residential buildings affect other buildings too and consider how to extend her approach beyond high-rise residential buildings.
307. At the heart of our regulatory reforms is our proposal to establish a single building safety regulator.
308. The building safety regulator would oversee or undertake all the functions that Dame Judith earmarked for the Joint Competent Authority, as well as the functions that she had proposed assigning to the overarching competency body and oversight structure.
309. Brigading the functions proposed by Dame Judith's Independent Review into a single building safety regulator will enable it to have strong oversight of the safety and performance of all buildings, with a particular focus on buildings within the initial scope of the new regime and ensuring the rigorous and effective enforcement of the new building safety regulatory regime for buildings in scope. The formation of a single body in an already complex landscape of national and local regulators will avoid the introduction of further complexity in to the system, yet will allow it to set an enabling framework within which to work with existing regulators on the ground to ensure that they are improving safety and

performance of all buildings and driving up continuous improvement and culture change beyond a small sub-set of higher risk buildings. Our proposal goes further than Dame Judith recommended and addresses systemic weaknesses to which she alludes, but which fell outside the narrow scope of her Independent Review.

310. The proposed new building safety regulator could have responsibility for:
- a) Oversight of the new regulatory regime for buildings in scope of the new regime;
 - b) Setting standards;
 - c) Advising Government on changes to the scope of that regime; and
 - d) Oversight of work to drive increased competence of professions and trades working on buildings across the whole of the built environment.
311. We will consider what statutory objectives are needed to guide the building safety regulator's broader regulatory remit, including the objective to promote building safety and the safety of people in and about buildings, and we are seeking views on this.
312. The building safety regulator would need to have a degree of independence, to enable it to provide robust, impartial advice to Government and the industry whilst having clear lines of accountability to ministers, and ultimately Parliament.
313. We believe that two elements of Dame Judith's recommended regulatory reforms should remain separate from the proposed building safety regulator: regulation of construction products, and a periodic review of the system. We envisage a close working relationship and co-operation between regulators, but, as set out in paragraph 335 the Government believes construction products are best regulated separately. The implementation of the proposals on construction products will be dependent also on the future relationship agreed between the UK and the EU.
314. The Government also accepts the principle of a periodic review of the system, but as the building safety regulator will have a key role in the system, this review should be undertaken independently, including on the work of the proposed new body. We believe that this review should be every 5 years in the first instance

Q. 6.1. 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

315. We propose that at a national level the following functions would be undertaken by the building safety regulator:
- i. Overseeing the enforcement of a more stringent regulatory regime for buildings in scope of the new regime, including:
 - a) Maintaining a register of buildings in scope and who the dutyholder(s) are for those buildings;
 - b) Ensuring an effective system is in place for inspecting buildings and building safety information to ensure that dutyholders are complying with the regime throughout the lifetime of the building (using gateways, safety cases and other mechanisms);

- c) Providing guidance for dutyholders relating to buildings in scope;
 - d) Ensuring that whistle-blowing, resident concerns and mandatory occurrence reports are effectively collected and acted upon by regulators and industry appropriately; and
 - e) Advising Government on changes that should be made to the scope of the more stringent regime.
- ii. Overseeing competence of professions and trades working on buildings, including:
- a) Establishing a committee, comprising of industry bodies, independent experts, building owners, and residents to provide cross-discipline peer review, support and challenge functions to drive competence;
 - b) Maintaining a register of those competent to undertake key roles in the new regulatory system for buildings in scope of the new regime (Principal Designer, Principal Contractor and building safety manager);
 - c) Providing guidance on selecting competent people and signposting dutyholders to organisations which approve competent individuals to work on buildings in scope.
- iii. Overseeing the building safety and wider regulatory system as a whole, including:
- a) Monitoring and driving improved performance across the building safety and wider regulatory system;
 - b) Advising on and preparing proposals for changes to building regulations as needed;
 - c) Overseeing development of appropriate technical guidance, either preparing guidance directly for approval by the Secretary of State, or validating and quality-assuring technical guidance for the construction industry;
 - d) Championing building safety and quality, and the interests of residents, including working with the construction industry to spread best practice and encourage innovation;
 - e) Advising industry and Government on research into new or emerging risks;
 - f) Working with other regulators and enforcement bodies to achieve safety and other outcomes for buildings;
 - g) Reporting regularly on the performance and overall health of the building regulatory system.

316. The building safety regulator would also absorb the roles of the current Building Regulations Advisory Committee and the Independent Expert Advisory Panel.

Q. 6.2. 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.

317. The specific organisational model for the building safety regulator, how it will be structured, where it will be housed, lines of accountability, and the sourcing of necessary capacity and expertise have still to be determined. We will continue to work with partners, including the Joint Regulators Group, Competence Steering Group and Building Regulations Advisory Committee to develop our proposals and test the practical issues raised by brigading these functions, including the relationship between the building safety regulator and local partners.

318. This work will also consider if some or all these functions can be delivered ahead of legislation by the Joint Regulators Group or by an existing national regulator. The final proposals on whether the national building safety regulator('s) functions should be delivered by existing national regulators or through the creation of new central government arm's length bodies will be developed in due course. Should the final proposals lead to the creation of new central government arm's length bodies, then the usual, separate government approval process would apply for such entities. This equally applies to proposals elsewhere in this document.

319. We are working with the Joint Regulators Group to understand what the relationship between the building safety regulator and local partners should be, and how we could draw on the expertise of the Health and Safety Executive, building control and fire and rescue service expertise in carrying out inspection and assurance work at local level in a coordinated and effective way for buildings in scope. As part of this we need to consider the appropriate relationship between the new building safety regulator and those carrying out inspections and enforcement at the local level, and how any new national governance arrangements will fit with existing ones for regulators affected.

320. We want to establish the building safety regulator quickly and are looking at options for a shadow body that could begin to carry out some of its functions ahead of new legislation coming into effect. One option would be to expand the work which the Joint Regulators Group is doing to pilot the new regime to support efforts to remediate buildings. This work would be carried out either by the JRG in its current form or be a similar group hosted within an existing national regulator.

Q. 6.3. 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.

Minimising conflicts of interest within the regulatory system

321. The Government agrees that there is a perceived conflict of interest where a developer is able to choose their own building control body and thereby influence the frequency and depth of inspectors and oversight activity of their project.

322. There is also a perceived conflict of interest in terms of local authorities being the building control body for their own building.
323. We have received a range of views and suggestions through the national listening exercise.
324. Policy work is under way to investigate how we might be able to remove dutyholder choice, whilst keeping Approved Inspector capacity in the system and removing other potential conflicts (such as those of local authorities) for buildings in scope of the new regime.
325. We remain committed to ending the ability of a developer to choose which building control body oversees the construction of their building (for the buildings in scope) and we are committed to continuing to use the valued expertise of both Approved Inspectors and local authorities under the new regime. In line with this, we are working with the Joint Regulators Group and representatives of Approved Inspectors and local authorities to identify ways of minimising conflicts of interest and ensuring that we have sufficient regulatory capability and capacity under the new system.

Oversight of competence

326. The system described in this document relies on the competence of all those working on buildings in scope, from building designers, engineers, site supervisors and installers, to fire risk assessors and those who own and manage the buildings. The Independent Review recommended a more coherent and consistent approach to assessing and assuring competence of people across all disciplines working on buildings in scope. This needs to be accompanied by a shift in culture and mindset across the whole building industry so that everyone takes ownership and responsibility for delivering safe and high quality buildings. This must be led by the sector for it to be meaningful and lasting. Rising to Dame Judith's challenge, the Competence Steering Group brought together a wide variety of organisations from industry. These organisations are working collaboratively to develop proposals for a robust and coherent overarching system for overseeing competence requirements across industry, and to raise competence within each discipline that works on buildings in scope.
327. The Competence Steering Group has established twelve working groups covering relevant disciplines involved in the design, construction, inspection, maintenance and management of buildings⁵⁴. These groups are working to review and raise levels of competence within their own disciplines, with a particular focus on higher risk buildings. Significant progress is being made by these groups; many are close to finalising their recommendations and are planning to consult on their proposals within their sectors.
328. To provide assurance of robust, coherent and consistent standards across all disciplines working on buildings within the scope of the new regime, the industry-led Competence Steering Group has developed initial proposals for competence oversight. The report on oversight proposals can be found at Annex E. The

⁵⁴ The twelve working groups cover engineers, installers of fire and life safety systems, fire engineers, fire risk assessors, fire safety enforcing officers, building standards inspectors, building designers, building safety managers, site supervisors, project managers, and cross-cutting working groups on procurement and products.

Group recommended that relevant professional and trade bodies should lead to the creation of an overarching competence framework, setting out the specific core knowledge, skills and behaviours required of anyone working on buildings in scope of the new regime. This should include an appropriate level of fire and structural safety knowledge as a minimum. It will also cover the principles for evaluating and re-evaluating competencies and Continuing Professional Development requirements to ensure that these processes remain consistent, robust, rigorous and repeatable.

329. The Competence Steering Group has proposed that this overarching competence framework could be captured and maintained in a suite of national standards (e.g. the British Standards Institution⁵⁵, or a Publicly Available Specification (PAS)⁵⁶, and be overseen by a separate, independent, stakeholder-led standards committee⁵⁷.
330. Relevant disciplines should identify gaps in their existing competence requirements or framework against the new benchmark framework standards. They should review these requirements to ensure they meet the standards and expand as appropriate to the role and activities carried out by individuals within that discipline. Individual qualifying bodies will be expected to maintain a register of their members that have met the competence standards for working on multi-occupied residential buildings of 18 metres or more and to be accredited/licensed by a suitable publicly recognised body such as UKAS, the Engineering Council or other body, subject to equivalent standards of accreditation.
331. The Competence Steering Group is proposing that an industry committee comprising relevant industry bodies, independent experts, building owners and residents should be established to drive competence by providing oversight and assurance, particularly by:
- Working with and challenging relevant professional and trade bodies to drive gap filling, peer review and agree individual competence frameworks for all disciplines working on buildings in scope. It should also support disciplines with no publicly recognised governing or regulatory bodies and promote the equivalence of accreditation systems;
 - Issuing guidance on how to ensure competent people are deployed at each stage of a building life cycle, including signposting to registers of competent people or organisations to work on buildings in scope. Relevant professional and trade bodies would register individuals who meet or exceed the agreed standards. Industry proposes that the building safety regulator, in exercising its functions, should have regard to this committee's guidance, so far as is reasonably practicable;

⁵⁵ Standards produced by the British Standards Institute (the UK's National Standards Body). Standards are published documents containing technical information or other precise criteria designed to be used consistently as a rule, guideline or definitions. Standards are not imposed by government but can be used to help support legislation or regulation.

⁵⁶ A standardisation document that closely resembles a formal standard in structure and format, but which has a different development model designed to speed up standardisation in response to an urgent market needs. In the UK, PAS are developed by the British Standards Institute (BSI)

⁵⁷ A standard is a collective work. Representatives of organisations having an interest and expertise in the subject matter are brought together to form a committee to draw up the standard, with BSI facilitating their development and review. Typically, a standards committee comprises representatives of industry bodies, research and testing organisations, local and central government, consumers and standard users.

- Providing a space for which professional and trade bodies can continue to work collaboratively to monitor and review individual competence frameworks, and to drive competence more widely;
- Providing guidance and signposting applicable legislation and standards relevant to buildings in scope, advising and promoting the integration of learning into continuous improvement cycles and through competence training.

332. The Government believes such a committee could be appointed by the building safety regulator. In the interim, an industry-led forum or a temporary Government-appointed committee could be formed to continue industry's work to drive competence, including developing and agreeing the overarching benchmark competence framework as a base document for the national standards, and working with individual disciplines to raise levels of competence against the benchmark framework.

333. The Competence Steering Group is finalising its full report covering recommendations from all working groups shortly, including a plan on how industry will continue to work together to take these proposals forward. The Group will test these recommendations via an industry-led consultation and stakeholder events aiming to seek broad views and gain buy in for these proposals from wider industry. Government encourages the Competence Steering Group and wider industry stakeholders to feed those views into this consultation.

334. Government is minded to agree 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), and for establishing an industry-led committee to drive competence.

Q. 7.1. 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.

Q. 7.2. 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.

Q. 7.3. Do you agree with the proposed functions of the committee that are set out in paragraph 331? Please support your view.

Q. 7.4. 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.

Oversight of the construction products system

335. Construction products⁵⁸ are used throughout the lifecycle of a building and have a critical impact on its safety. The Independent Review noted that in the current system there can be a lack of clarity on responsibility and requirements across areas such as product performance, traceability, and labelling. It highlighted the need to clarify roles and responsibilities during their use in higher risk residential buildings and ensure that information on their performance and appropriate use was provided in an accessible and simple manner. The Independent Review also recommended the strengthening of national regulatory oversight and market surveillance of construction products.
336. The Implementation Plan set out our intention for fundamental reform of this sector. This reform will need to be underpinned by a stronger and clearer regulatory framework and the construction products industry and wider construction sector will need to support this through changes in expectations and culture.
337. The proposals set out in this consultation form part of a wider programme across the construction products sector. This includes establishing a standards committee to provide impartial advice to the Secretary of State on construction products and system standards, including how the conformity assessment for construction products can be improved. Trade associations will also be asked to demonstrate how their sectors have established processes to share information, undertake assurance of quality, provide best practice guidance, and plans to continuously improve their standards. The Crown Commercial Service has reviewed the frameworks within its Building Pillar, which supports the full lifecycle of a building, and is introducing changes to implement the Independent Review's procurement recommendations for the public sector.
338. The reforms set out in this part of the consultation are set out in three sections: establishing roles and responsibilities; strengthening national construction products oversight; and encouraging independent assurance. These proposals may affect all construction products made available or used in the UK. We indicate where the intention is for a proposal to have limits on its applicability. The proposals will be developed to ensure consistency of performance and safety of residents, and will take account of, and interact with, future international relationships. These proposals cover products used in buildings and civil engineering projects.
339. The implementation of the proposals on construction products will be dependent on the future relationship agreed between the UK and the EU.

Establishing roles and responsibilities

340. This section applies to construction products across the UK and legislation governing the placing of construction products on the market is UK and/or EU

⁵⁸ The definition from Construction Products Regulation 2011 is "Construction product means any product or kit which is produced and placed on the market for incorporation in a permanent manner in construction works or parts thereof and the performance of which has an effect on the performance of the construction works with respect to the basic requirements for construction works." (www.eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32011R0305&from=EN)

wide. However, it will only apply to construction products without an EU harmonised standard and where a manufacturer has not obtained a European Technical Assessment. Products with an EU harmonised standard will continue to be regulated through the requirements set out in UK Construction Products Regulation 2013⁵⁹ which already sets out clear roles and responsibilities.

341. In the current system, construction products without an EU harmonised standard (for example cladding, fire doors) can lack clarity on regulatory requirements and enforceable requirements for performance, traceability, and labelling. In turn responsibility for performance can be confusing. Our proposals therefore seek to make explicit manufacturers' roles and responsibilities in legislation, particularly in relation to the performance of products that can have a critical impact on safety.
342. These requirements will need to be focused on construction products with industry standards. We propose that products that fall within this regime are identified through an 'inventory list'. In the first instance, we would look to include any product with a standard or testing standard that is used or mentioned in statutory guidance. However, we would expect the inventory list to develop to include more products and systems when they are judged to be essential to fire safety and have a national standard in relation to performance.
343. This will enable these requirements to be focused on construction products that are essential to safety. It will also ensure manufacturers and market surveillance authorities are clear about products that fall within this regime. A list pointed to by legislation will allow this inventory list to be amended by the relevant authorities to include further construction product standards when established and/or identified.

Q. 8.1. 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.

Q. 8.2. Do you agree that an 'inventory list' should begin with including those constructions products with standards advised in Approved Documents? Please support your view.

Q. 8.3. Are there any other specific construction products that should be included in the 'inventory list'? Please list.

344. We will want to extend and also strengthen several of the requirements placed on construction products with an EU harmonised standard across construction products caught within this new regime. Specific areas identified include:
- Clear labelling including a unique identifier⁶⁰ that enables traceability and access to information on maintenance. Some parts of the construction industry are already using technology (smart labels) to achieve this and continued collaborative investment by the industry will improve the quality, standards, and accessibility of this critical information.
 - A declaration of performance⁶¹ that is publicly available stating a product's performance in relation to its essential characteristics and/or a standard, as

⁵⁹ <http://www.legislation.gov.uk/ukSI/2013/1387/contents/made>

⁶⁰ Similar to the requirements in article 11(4) of the EU Construction Products Regulation

⁶¹ Similar to the requirements in article 7 of the EU Construction Products Regulation

well as other critical information such as its acceptable use, known limitations, lifespan, maintenance, and other relevant safety information. The manufacturer will assume responsibility for the conformity of the construction product with this statement.

- Have in place systems to ensure that the products they manufacture consistently meet the claimed performance standard⁶². This may require an established test methodology with associated standard and could be demonstrated through industry or Government recognised third-party assurance.

Q. 8.4. Do you agree with the proposed approach to requirements for construction products caught within the new regulatory regime? Please support your view.

Q. 8.5. Are there further requirements you think should be included? If yes, please provide examples.

Strengthening national construction products oversight

345. This section will apply to all construction products in England only or across the UK, subject to agreement with relevant Devolved Authorities.
346. Currently, national oversight of construction products is undertaken within the Ministry of Housing, Communities and Local Government. Across other sectors a greater focus on oversight and capability has been established to undertake national market surveillance and enforcement action where required. For instance, the Medicines & Healthcare products Regulatory Agency is an Executive Agency that regulates medicines, medical devices and blood components for transfusion in the UK; and, the Office for Product Safety and Standards was set up to oversee the regulatory system⁶³ for product safety and standards in the UK.
347. The Implementation Plan set out our intention to strengthen the national regulatory oversight of construction products. Dame Judith's Independent Review recommended that Government consider whether this could be achieved by extending the remit of the Office for Product Safety and Standards. She found that at a national level more robust and effective enforcement, complaint investigation and surveillance regimes with national reach and resources was needed. This should include taking forward risk-based testing and provide greater assurance that products deliver as expected. We are working with the Office for Product Safety and Standards to consider the most effective way of ensuring this national oversight, this may be to expand their remit and funding, and we are in discussion with Business Energy and Industrial Strategy about this, as well as considering other options. The key functions that we would expect to be undertaken are:
- Market surveillance and oversight of local enforcement action, including a national complaints system and support for local enforcers (e.g. Trading Standards) in complex cases;

⁶² Similar to the requirements in annex 5 of the EU Construction Products Regulation

⁶³ General Product Safety Regulation 2005 <http://www.legislation.gov.uk/ukksi/2005/1803/contents/made>

- Enforcement action with manufacturers, where issues are judged to be national and/or significant;
- Advice and support to industry to improve compliance and establish long-term objectives;
- Oversight across the conformity assessment system for construction products;
- Technical advice to Government.

Q. 8.6. Do you agree with the proposed functions of a national regulator for construction products? Please support your view.

348. The Housing White Paper⁶⁴ talks about specific measures to stimulate the growth of modern methods of construction, including offsite and smart techniques. Modern methods of construction refer to the spectrum of different technologies used to manufacture accommodation, in part or fully, offsite and assembled onsite. New technology has improved productivity, quality and choice in a range of sectors and the Government is keen to see house builders realise these benefits by embracing innovation and taking advantage of new technologies to build good quality homes more quickly and offering higher energy efficiency to buyers.

349. This creates challenges for regulators such as Building Control which are generally set up for local, on-site assembly and not remote factory assembly. Visits to manufacturing facilities may normally be undertaken by a products regulator, however, feedback from local trading standards is that they do not have sufficient expertise to undertake this role effectively. A key issue for compliance will be confidence in quality assurance systems being used for fabrication offsite and installation onsite. Our proposal is that the construction products regulators should play a role in ensuring modern methods of construction meet the standards they are being marketed as meeting and work with other regulators to make sure they are installed and used in a safe way.

Q. 8.7. Do you agree construction product regulators have a role in ensuring modern methods of construction meet required standards? Please support your view.

Q. 8.8. Do you agree that construction product regulators have a role in ensuring modern methods of construction are used safely? Please support your view.

350. Regulators must have powers to act should manufacturers break the law or products be determined as unsafe. Our proposal is to replicate the powers set out in the EU Construction Products Regulation to cover those products named on the inventory list. In addition, we want to ensure that relevant information is provided to the regulator across all construction products. As such we intend to include a duty on all actors in the industry to share information with the products regulator if there is a public safety concern or if the regulator requests it.

⁶⁴https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/590463/Fixing_our_broken_housing_market_-_accessible_version.pdf

Q. 8.9. 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.

Encouraging independent assurance

351. This section on the role of independent assurance is in relation to England only.
352. Independent assurance schemes, commonly known as third party assurance schemes, can provide building owners and residents with ongoing assurance of the performance of their products. This is done through an independent audit of companies and their manufacturing practices and can include random testing of products.
353. Strengthening the existing schemes and extending their use across the construction industry will strengthen safety and provide formal mechanisms to capture and share intelligence. However, there are currently no minimum requirements for independent assurance schemes and as a result there can be a lack of clarity on the risks these schemes are mitigating – whether integrity of the design or constancy of the manufacture – and how this is being achieved.
354. We are working with the British Standards Institution, UK Accreditation Service, and wider industry to develop minimum requirements and establish clear standards for independent assurance schemes. These are envisaged as an umbrella BSI Standard specification that can apply across all construction product schemes. In turn, industry sectors will be expected to develop product specific requirements that build on these minimum requirements. The following areas are being considered for the umbrella standard:
- Products should be re-tested at random within a specified period;
 - Failures and concerns regarding a product must be reported to the relevant regulator(s) immediately;
 - A consistent format for certification documents that is accessible and useful to building owners and residents;
 - A statement on the limitations of a product's certification alongside expectations of how manufacturers advertise independent assurance certification;
 - Compliance of scheme operators to the requirements of BS EN ISO IEC 17065:2012⁶⁵;
 - Proactive monitoring of products through market surveillance.

Q. 8.10. Are there other requirements for the umbrella minimum standard that should be considered? If yes, please support your view.

Q. 8.11. Do you agree with the proposed requirements in paragraph 354 for the umbrella minimum standard? If not, what challenges are associated with them?

⁶⁵ BS EN ISO IEC 17065:2012

Q. 8.12. Do you agree with the proposal for the recognition of third-party certification schemes in building regulations? Please support your view.

355. Currently, third-party certification can be used to demonstrate compliance with Regulation 7 of the building regulations (materials and workmanship)⁶⁶. We are considering whether this should be amended so that, for construction products, it is only third-party certification by a scheme with accreditation to the new minimum requirements that can demonstrate compliance with building regulations. This might include confirmation that these products will be deemed to satisfy Regulation 7 without further assurance, but products without this would need to provide specific evidence that expected levels of performance had been achieved.
356. The quality of installation is crucial to the performance of construction products. There are currently third-party schemes for some products that cover installation, maintenance, and inspection. Not all products have these associated schemes, although often the performance of a product is wholly dependent on the quality of its installation. Where these schemes do exist, they do not currently have minimum standards and are not required to have accreditation.

Q. 8.13. Do you agree that third-party schemes should have minimum standards? Please support your view.

Q. 8.14. Are there any benefits to third-party schemes having minimum standards? Please support your view.

Q. 8.15. Are there challenges to third-party schemes having minimum standards? Please support your view.

⁶⁶ <https://www.gov.uk/government/publications/material-and-workmanship-approved-document-7>

Chapter 6

Enforcement, compliance and sanctions

357. In the Independent Review, Dame Judith called for increased regulatory oversight and for the sanctions and enforcement regime to be reinforced so that penalties are an effective deterrent against non-compliance. The creation of a building safety regulator, set out in Chapter 5, carrying out inspection and enforcement activity itself, and/or through working with existing local regulators, will address this in part. In addition, and as noted above in the chapters covering the responsibilities of dutyholders/accountable persons in the design, construction and occupation phases, those new responsibilities will be underpinned by criminal offences, as will the broader regime envisaged for construction products.
358. This chapter sets out how we envisage the building safety regulator will approach compliance and enforcement; sets out what offences will be created in the new regime; sets out a proposal for civil sanctions as an alternative to prosecution; and sets out a number of proposed changes to the Building Act 1984 to strengthen the overall regime.
359. One of the core functions of the building safety regulator will be to oversee improved building safety for buildings in scope so as to deliver on the aim of ensuring people are safe, and feel safe, in their homes. The new system, as set out in previous chapters will provide effective incentives to those responsible for buildings to deliver high standards of safety, thereby complying with the system.
360. We are proposing a three-step process, whereby the building safety regulator achieves this through:
- **Reinforcement of operating standards and provision of professional guidance:** Initially, the building safety regulator will seek to achieve compliance by informally working with the dutyholders/accountable persons, evidencing its intervention.
 - **Proactive intervention and monitoring:** Where the above collaboration approach fails to achieve the desired outcome, or where the building safety regulator determines that the offence in question warrants more serious action, it will stage interventions to secure compliance. Generally, this could be through taking action such as (but not limited to) issuing stop notices or improvement notices.
 - **Enforcement action:** Where the stages above fail to achieve compliance, the building safety regulator moves to take enforcement action against dutyholders/accountable persons. This may be through formal orders, penalties, or by reviewing the building safety certificate which may, ultimately, lead to revocation. The building safety regulator may also decide to prosecute the dutyholders/accountable persons.

Q. 9.1. 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?

361. We will need to carefully consider how any new enforcement and sanctions needed will fit with the current regime. This will likely include introducing new criminal and civil sanctions for:

- **Gateways:** For Clients, Principal Designers and Principal Contractors during design and construction, refusal of permission to proceed at the various gateway points by the building safety regulator will be the primary enforcement tool in order to incentivise compliance with the new regime. Carrying out work without having acquired the necessary permission by the building safety regulator to proceed through the gateway regime could lead to criminal offences;
- **Building safety certificate registration:** It would be a criminal offence for an accountable person (the person in control of a building in scope) not to make a valid application for its registration within the relevant time limit. For new buildings that are in scope, the building safety regulator would not permit the building to be occupied until a certificate has been issued and the building has been successfully registered. For existing buildings, we are proposing a transitional implementation period that the accountable person must comply with;
- **Building safety certificate conditions:** It would be a criminal offence for an accountable person to breach conditions⁶⁷ that have been agreed by the building safety regulator⁶⁸ when issuing, reviewing or renewing a building safety certificate for a building in scope. The seriousness of the offence committed will be a key consideration when determining the level of sanction to apply and pursue. Non-compliance with conditions on the certificate may result in the revocation of the building safety certificate. In addition, this may lead to the building safety regulator refusing to issue/renew a building safety certificate and/or for prosecution to be pursued against the accountable person;
- **Construction products:** We intend to apply similar sanctions to those which apply under the Construction Products Regulations SI 2013⁶⁹ to a broader range of construction products as described in Chapter 5.

Q. 9.2. 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?**

⁶⁷ Such as (but not limited to) mandatory conditions required by the safety case, Resident Engagement Strategy, mandatory occurrence reporting and golden thread.

⁶⁸ See paragraphs 185 -187 for more detail on mandatory, voluntary and special building safety conditions

⁶⁹ <http://www.legislation.gov.uk/ukSI/2013/1387/contents/made>

Q. 9.3. 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.

Making civil sanctions available to deter and punish breaches of building safety

362. To overcome drawbacks such as the delay and cost inherent in prosecution, we propose enabling the building safety regulator to use its expertise and discretion and to introduce fixed and variable monetary penalties for building safety breaches. Penalties levied may be considerable for breaches of building safety⁷⁰.
363. We envisage that introducing such a regime will strengthen the enforcing authority's powers to deliver satisfactory outcomes more quickly and more efficiently, in addition to being able to use criminal sanctions for the worst offenders and repeated non-compliance.
364. Criminal convictions and civil sanctions would be appealable through the normal route/s available to the accountable person.

Q. 9.4. 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.

Enforcement action under the Building Act 1984

365. The intention of the new dutyholder roles is to make it easier to identify responsibilities for compliance with building regulations. The Building Act 1984 applies to all building work on all types of building. The changes discussed in the following paragraphs would apply to all building work, not just that done on buildings within the scope of the new regime.
366. Section 35 of the Building Act 1984 provides that if a person contravenes a provision contained in building regulations to which section 35 applies⁷¹, he or she is liable on conviction to an unlimited fine, plus a further fine of up to £50 for each day on which the default continues after he is convicted. The maximum time limit for bringing such a prosecution is up to two years after the offence was committed.
367. Section 36 of the Building Act 1984 provides powers for a local authority to require a building owner to pull down or remove non-compliant work or alter the work to make it compliant. The time limit for serving such a notice is up to one year after the work has been completed.

⁷⁰ For example, HMRC can levy civil penalties up to 100% of the tax evaded, plus the tax itself and interest on the unpaid sum, going back up to twenty years in extreme cases.

⁷¹ Certain regulations of the building (Approved Inspectors etc.) regulations 2010 and the building regulations 2010 are designated as provisions to which section 35 Building Act 1984 does not apply: regulation 31 Building (Approved Inspectors etc.) Regulations 2010 and regulation 47 building regulations 2010.

368. In 2012, the Coalition Government proposed to extend the time limits and, while there was strong support for these proposals, the proposals have not yet been taken forward. The Independent Review recommended that the time limit for bringing prosecutions against dutyholders should be increased to 5 or 6 years for major deficiencies in building requirements identified at a later date.
369. We propose that the trigger point for these powers should be following the completion of non-compliant work. Where a latent defect is not obvious upon a reasonable inspection, or is deliberately covered up, the time limitations would apply from when the defect had been discovered, rather than when the work had been completed. We also propose to increase the time limits under sections 35 and 36 of the Building Act to either six or 10 years. This would align the approach with existing civil law time limits to bring disputes (commonly six years) or for building warranties (commonly 10 years).

Q. 9.5. Do you agree that formal enforcement powers to correct non-compliant work should start from the time the serious defect was discovered? Please support your view.

Q. 9.6. 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?

Civil liability for carrying out non-compliant work

370. Section 38 of the Building Act 1984 provides a private right of action where a breach of a duty imposed by the building regulations causes damage (including the death of, or injury to, any person).
371. Section 38 enables the Secretary of State to make regulations to set out defences to a claim for such a breach of duty. However, no such regulations have been made and the section has not been brought into force to enable claims to be made.
372. Government is seeking views on whether it should commence section 38 and, if so, whether section 38 requires any amendment before being brought into force.

The Regulatory Reform (Fire Safety) Order 2005

373. In their call for evidence to strengthen the Regulatory Reform (Fire Safety) Order 2005 (the Fire Safety Order), published alongside this consultation, the Home Office are seeking views on whether the existing enforcement and sanctions regime under the Fire Safety Order acts as a deterrence to non-compliance and whether any changes need to be made to the regime.

Annex A: Analytical Overview

1. This analytical annex sets out the cost and benefit impacts of the proposals in “Building a Safer Future: Proposals for reform in the building safety regulatory system” consultation and accompanies the consultation document to help inform responses. We are seeking views on whether consultees agree with these initial estimates and can provide further evidence to support their views. **Please send your comments and any supporting evidence to buildingconsultationanalysis@communities.gov.uk.** This will be used to inform further work and analysis post-consultation where a full Impact Assessment will be carried out and published in due course. This email address should only be used for queries directly relevant to this Annex. Any general queries on the consultation should be sent through to the address given in the main document.
2. The total aggregate cost for the entire package of measures proposed for high-rise residential buildings (18 metres and above) is estimated to be **£312m-£570m per annum** (central estimate at £425m). Around 85% of the costs are driven by the policy proposals around gateways, safety cases, residents voice, golden thread, dutyholder requirements and products. The costs are set out in detail in the rest of this document and in the main consultation document. The benefits of the building safety programme as a whole are currently monetised to be **£190m-£380m per annum**. Please note that, there are large non-monetised benefits of the building safety reform programme which have been listed in the benefits section below.

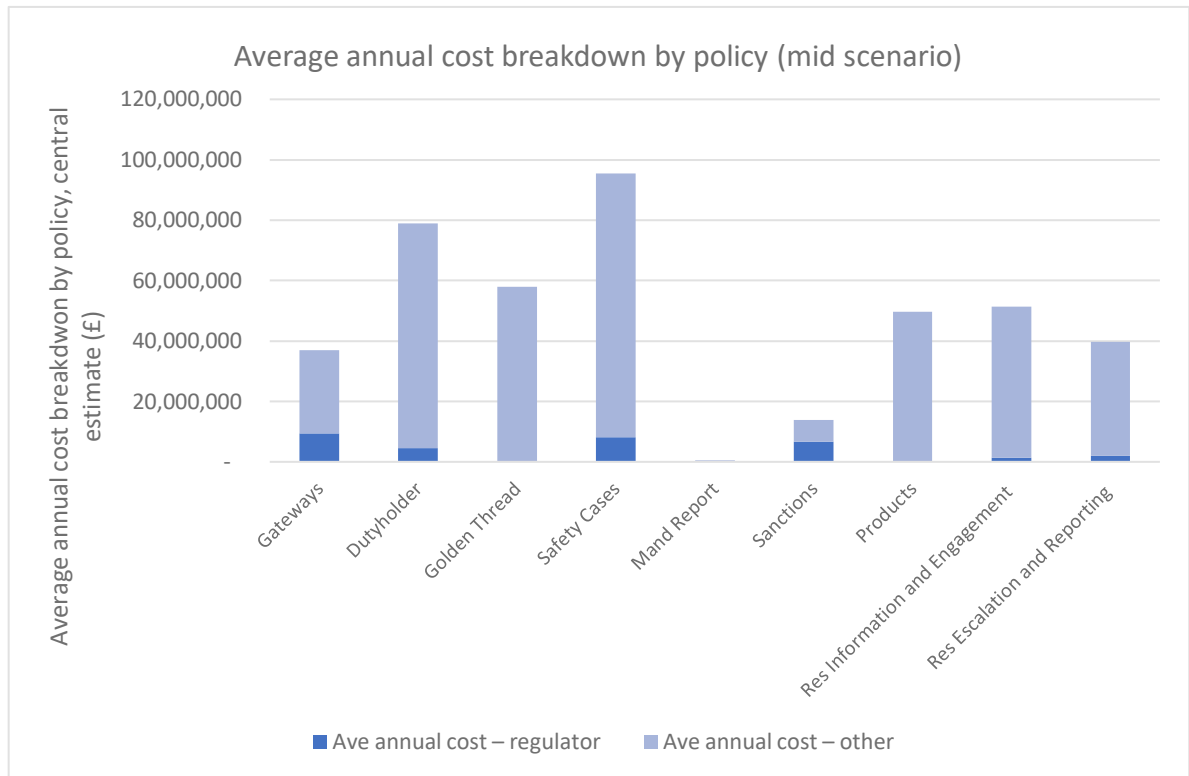
Table 1: Summary of costs & benefits, England 2019

High-rise residential 18 metres + buildings	Costs per annum, £m	Benefits per annum, £m
Total Impact of Hackitt Programme (including existing, new builds and refurbishments)	312-570	190-380

3. The initial analysis suggests that the policies of the new building safety regime overall would have the effect of increasing the build cost for new builds (18 metres and above) by £70,000-£160,000 (central estimate at £110,000). To put this in context, for new builds, we estimate that the extra costs of going through the new regime would represent between 0.5%-1.2% of total costs of constructing a residential building that is 18 metres or above. The main costs will fall on building developers, Registered Social Landlords (RSL) or Housing Associations and local authorities constructing new social homes and central Government funders for social housing. Initial analysis suggests that this would affect viability for less than 0.4% of brownfield development in the north of England and significantly less than this on greenfield sites and in the south of England, and so the impact on viability would likely be modest.

4. Chart 1⁷² below summarises how the total costs are broken down by policy proposal and Table 2 shows the cost per building across each of the policies.

Chart 1⁷³: Total average annual cost breakdown by policy⁷⁴



5. The cost per building is shown in Table 2 and shows the breakdown between new builds, refurbishment and existing buildings.

⁷² Chart 1 illustrates the costs of each building safety policy except for Competence as this is industry-led and costs of setting up an overarching Regulator. These costs will be monetised post consultation.

⁷³ The gateways figure does not include delay costs as this has only been costed for the high scenario.

⁷⁴ Other category includes average annual costs falling to social owners, private owners/ leaseholders and developers/ industry.

Table 2: Cost per building residential 18 metres+, England 2019

	Cost per building – new build (£'000)	Cost per building – refurbishment (£'000)	Annual cost per building – occupied (£'000)
Gateways⁷⁵	43-113	13-27	-
Dutyholder	16-24	13-20	3-4
Golden Thread	3-11	1-5	3-5
Safety Cases⁷⁶	-	-	5-10
Mand Report	0.1-0.2	0.1-0.2	0.03-0.04
Sanctions	2-4	8-12	0.5-0.8
Products	8-12	0.5-0.7	-
Residents Information and Engagement	-	-	3-6
Residents Escalation and Reporting	-	-	2-5
Total	72-163	37-64	16-31

6. The analysis in this document does not specifically look at the cost of the central operation and structure of the new building safety regulatory system as this will be considered as part of forthcoming work on regulatory form. However, initial indicative costs suggest that this could be around £10m per annum, if the scope remains residential buildings (18 metres and above), plus a central research budget. However, this is highly dependent on the approach and eventual scope of the structure. Further work will be carried out on this in due course.
7. The analysis set out here does capture the costs to the building safety regulator of running, inspecting or checking the process for the entire package of policies, assuming that all residential buildings 18 metres and above are in scope. This cost is estimated to be around £33m per annum (central estimate). 90% of the total costs are expected to fall onto social owners, private owners/leaseholders and developers/industry, with the remaining 10% falling to the building safety regulator. We will carry out further analysis to understand any additional regulatory burdens on social landlords, whilst taking into account other costs as set out in the Social Housing Green Paper.
8. Please see Table 11 in Annex A(i) for a further breakdown of costs presenting the annual aggregate costs across policies.

Benefits for high-rise residential 18 metres and above buildings

9. The proposals in this consultation will deliver a range of benefits. The main focus is on reducing the risk of major-fatality incidents and other casualties. There will also be wider benefits from reducing the risk of a major-fatality incident such as

⁷⁵ This assumes a staged approach is favoured. This does not include vicinity search costs and does include delay costs.

⁷⁶ The Safety cases costs include preparing safety cases for existing and in occupation buildings, cost to building safety regulator, annual review costs and remediation costs (without non-compliance).

remediation work. One of the important benefits of the reforms involve market benefits, due to defects being avoided and other improvements to the existing stock. These include helping to avoid reductions in sales value, reducing vacancy risks by reassuring potential tenants of the safety of their building, and reassuring insurance and mortgage providers. A number of indirect benefits to the industry have also been identified along with some of these wider industry benefits and these are outlined in Table 3. Our initial analysis estimates benefits of **£190m-£380m per annum** for residential buildings over 18 metres. In addition, there are some non-monetised benefits. Further work on benefits monetisation will be undertaken for the forthcoming impact assessment.

Table 3: Benefits breakdown, £m per annum, England 2019

	Low	Central	High
Casualty and multi-fatality industry risk reduction	34	56	94
Wider avoided cost of a major-fatality incident	108	154	200
Indirect benefits to the construction industry	28	39	51
Wider Industry benefits	19	27	36
Total	190	280	380

Source: Adroit Economics Consortium.

Casualty and multi-fatality incident risk (£34m-£94m)

10. The significant proposed changes in this consultation will deliver a range of benefits with a particular focus on complementing other recent policies to reduce the risks of future multi-fatality incidents. Recent policies contributing to this include the ban on combustible materials in external wall systems, the social Aluminium Composite Material (ACM) remediation fund and the review of Approved Document B.
11. The standard method for estimating life and health benefits due to mitigation of fire risk is to use the Department of Transport's Webtag values for prevention per casualty, including a value of preventing a statistical fatality (VPF). Fire statistics have been used to estimate the benefits from reducing casualties from small scale fire spread in residential buildings that are 18 metres and above. This achieves an annual benefit of **£0.5m-£2.3m**.
12. However, it is clear that there are additional benefits to the VPF valuation from reducing the risk of multi-fatality incidents such as the Grenfell Tower fire. These include mental health impacts, rehousing of residents, site management and demolition.
13. From this we have estimated the direct impacts of a multi-fatality incident, including both VPF and additional direct benefits of £0.8bn-£1.1bn. In order to estimate an annual benefit from reducing this risk it is necessary to estimate the reduction in risk per year of such an incident in the stock in scope. Our initial high-level estimate is based on an indicative risk reduction of an incident every 10-30 years. This suggests an annual benefit of **£34m-£94m**.

Wider avoided costs of a major fatality incident (£108m-£200m)

14. It is clear that there are wider construction costs associated with weaknesses in the current regime where construction does not meet the necessary requirements and so requires subsequent remediation. An example of this is the remediation of Aluminium Composite Cladding (ACM) cladding in residential buildings over 18 metres following the Grenfell Tower fire and the emergence of other concerns requiring remediation. This has involved remediation, waking watch fees, and related investigative/legal costs. The consultation costing work has identified a wider set of remediation concerns which are likely to be picked up through the proposed safety case regime including requirements for cavity barriers and fire doors, which could also be avoided.
15. Further work will be undertaken to carry out a more detailed investigation of these benefits, including use of emerging evidence from ongoing remediation efforts, such as the social remediation fund, and the inquiry. This will help inform the forthcoming impact assessment.
16. An initial exploratory high-level estimate has been made of a typical annual benefit from wider avoided costs of a major fatality incident of around £108m-£200m.

Indirect benefits to the construction industry (£28m-£51m)

17. A wider set of indirect benefits to the construction industry of the proposed changes have been identified. The following are a few examples of the benefits which have been monetised.
18. There will be reduced construction rework costs especially as a result of the gateway requirements. Information requirements will help to reduce costs from future intrusive surveys and general asset management. There will be time saving benefits from checking of products during construction, safety case preparation and establishing performance as a result of the products testing, declaration of performance and market improvements.
19. There will be cumulative benefits from reduced defects both during and at the end of the construction period as a result of the overall package of additional checking and information gathering assumed in the cost estimates. All of these types of benefits have been estimated to be around £28m-£51m per annum.

Wider industry benefits (£19m-£36m)

20. A range of wider potential benefits have also been identified and an initial indicative monetised estimate made. These are benefits which are less clearly identified than those above but are potentially significant where they can be delivered. The following are some examples of the monetised benefits:
 - There is a potential increased sale value where identified defects are corrected thus providing reassurance for potential buyers, insurers and mortgage providers.

- The UK architecture and construction services industry is likely to gain skills and expertise which can enhance its international competitiveness.
- The engagement focus of residents voice is likely to have an impact on mental illness and well-being.
- There will be spill-over benefits in applications of the Hackitt approach to residential buildings under 18 metres, for instance through use of safer materials and construction practices.

Non-monetised benefits

21. In addition, there are a range of benefits which have not been monetised, either because they are difficult to monetise or there has been insufficient time to carry out a proportionate analysis. The non-monetised benefits of the proposed building safety policies are summarised below:

- **Dutyholder:** Having a dutyholder in design and construction and in occupation is likely to ensure that a competent design team, principal contractor and principal designer are appointed. The benefits also include better information management, as well as better management and maintenance of buildings. This results in safer building and reduced long-term maintenance costs.
- **Wider dutyholder requirements:** Having a consistent accountability framework for all construction work provides a clear operating environment to designers and contractors who may work on a mixture of different residential, commercial and civil projects.
- **Safety Cases:** Safety cases mandate a proactive approach to building safety, meaning that issues are identified early and rectified before it becomes more costly for the dutyholder/accountable person to do so. This proactive approach should give confidence to residents, regulators and insurers that safety risks have been reduced so far as is reasonably practicable.
- **Golden thread:** The non-monetised benefits include increased usage of Building information modelling or BIM which may lead to efficiency gains during the construction process.
- **Mandatory occurrence reporting:** The non-monetised benefits include reducing the instances of fire and structure defects, reducing time taken to rectify defects, increasing awareness and shared knowledge of building safety concerns, and providing the building safety regulator with an informed intelligence picture of the safety issues within the sector.
- **Residents' Voice:** Providing residents with information will help develop more transparent and collaborative relationships with building managers, leading to safer buildings. Residents will be better able to spot and report safety hazards ensuring they are resolved earlier saving costs. Other potential benefits include value for money savings, safer and more effective decision-making and increased customer satisfaction. More effective complaints handling and escalation should mean issues are raised and resolved faster leading to increased confidence that issues raised, are acted on.

Key assumptions of the benefits work

Many of the identified benefits are as a result of the package as a whole, where interactions between interventions will help achieve the required outcome. For instance, the casualty, reduced incident risk, and wider avoided costs are all delivered from the combination of policies working together to reduce risks and avoid future potential remediation.

22. The individual components of the costs of the new building safety regulatory system are summarised in the next sections. The costs of competence are not included in this annex as we are seeking views on industry proposals for an overarching system for overseeing competence requirements for those working on higher risk buildings. Further work on this will be undertaken during and post-consultation.

Scope: This annex sets out the results of initial high-level estimates of the total costs and benefits likely to derive from the proposed policy changes applied to all residential buildings (18 metres and above in height). The estimates are mainly based on a typical average residential building over 18 metres. However, with regards to some changes, such as products and dutyholder requirements, the scope applies more widely due to the nature of the changes.

23. The analysis has been undertaken by the Adroit Economics Consortium and is in line with HM Treasury's Green Book guidance. Costs have been assessed using an appraisal period of 10 years, discounted at 3.5%; benefits have been assessed using a 30-year appraisal period, discounted at relevant appraisal periods (3.5% for all other benefits and 1.5% for health and life values). Please note that the totals may not sum due to rounding.

24. The analysis is based on relevant published data, industry intelligence and a series of assumptions, where there are gaps in information. To compensate for the uncertainty around some assumptions, high, medium and low estimates have been prepared, providing a range of outcomes⁷⁷.

25. Table 4 below sets out the estimates for the volumes of buildings that our analysis is based on. The range is a high-level central estimate over a 10-year appraisal period. The new build flow is estimated to increase at 3% each year and we have assumed that 3% of stock undergo major refurbishment every year.

⁷⁷ In some cases, specific estimates have been made for each of the high, medium and low scenarios. In other cases, a specific assessment has been made only for the medium (central) scenario, and high and low scenario estimates have then been calculated by applying an appropriate percentage adjustment (i.e. +/- 20%). Further detail of the assumptions and adjustments is provided at the end of this document.

Table 4: Volumes of buildings, England, 2019-2029.

Building type (central estimates)	Total stock	Annual design and construction	Annual major refurbishment
Residential buildings 18 metres+ (over 10 years)	11,100 (in Year 1) – 14,900 (in Year 10)	330 (in Year 1) - 450 (in Year 10)	330 (in Year 1) – 450 (in Year 10)

Costs of high-rise residential 18 metres and above buildings

Dutyholders

Currently, people involved in the construction of high-rise residential buildings can create risk without being responsible for managing it and there is a lack of clear accountability. To address this, the Independent Review recommended the creation of a system of dutyholders – people involved in the design, construction and management of buildings in scope, who have clear responsibilities at each and every stage of the building’s life. In this section the costs of the duties in design and construction; duties in occupation; and duties that apply across the lifecycle of the building and benefits are also discussed.

In design and construction

26. The policy is estimated to cost around £16,000-£24,000 per new building and £13,000-£20,000 per major refurbishment, equating to a total cost of around £6-£9 million per annum for new build and £5m-£7m per annum for major refurbishment.

In occupation

27. The policy in the occupation phase is estimated to cost around £3,000-£4,000 annually per building. The annual average net cost is estimated to be £34 million-£52 million.

28. The building safety manager has responsibilities such as in the handover of the building between the construction and occupation stages. This has been costed as part of the dutyholder design, construction and occupation stages costing work.

Wider dutyholder role for all building works

29. There will be no new requirement for those responsible, currently the ‘person carrying out the work’ and with the policy change the relevant dutyholder, only clarification of who is responsible for existing requirements. The indicative estimate of the potential cost of requiring further checking for all building work which is attributable to the policy itself is estimated to be around £23m per annum (Adroit Consortium estimate).

Key assumptions

- For competence checks, the costings assume that 75% of the buildings have an experienced design team, 15% an inexperienced design team and 10% have an arms-length design client.
- Competency checks on the Principal Designer and Principal Contractor includes correspondence, interviewing, and auditing.
- The building hand over assumes one day of a dutyholder’s time and three days of a building safety manager’s time.
- Competency checks assume that 60% of dutyholders are experienced, 30% are inexperienced and 10% are arms-length. In registration, 10% of applicants are assumed to require extra checks, such as interviews and inspection of property.

Gateways

This section details the cost benefit analysis for the three specific ‘gateway’ points in the design and construction of buildings, as well as for major refurbishments (including commercial to residential use). Gateway one occurs before planning permission is granted, gateway two before construction begins and gateway three before the building’s occupation.

30. Two approaches have been considered – full plans and staged. Under a full plans approach, all plans will be required up front. In a staged approach, developers would not be permitted to begin work on other parts of the building until an inspection of the previous stage had been successfully passed and the plan(s) for the subsequent section/s had also been approved.
31. Under the full plans approach, the cost per new build residential building 18 metres and above for gateways one⁷⁸, two and three is estimated to be around £43,000-£102,000⁷⁹. Industry costs make up around 70% of this, and the remaining 30% is attributed to building safety regulator costs. The total cost per annum for a full plans approach is £15m-£36m.

⁷⁸ Gateway one applies only to 30m and above buildings.

⁷⁹ Gateway one only applies to 30m and above buildings. This does not include the vicinity search costs or delay costs.

32. Under the staged plans approach, the cost per new residential building 18 metres and above for gateways one⁸⁰, two and three is estimated to be around £43,000-£96,000⁸¹. Industry costs make up around 70% of this, and the remaining 30% is attributed to regulator costs. The total cost per annum for a staged plans approach is £15m-£34m. With the staged approach, developers would not be permitted to begin work on other parts of the building until an inspection of the previous stage had been successfully passed and the plan/s for the subsequent section(s) had also been approved.

Gateway one costs

Scope: This will apply to 30 metres and above residential developments only.

33. The person applying for planning permission will need to complete a Fire Statement outlining how they are going to manage fire safety issues (fire service vehicle and water access) as part of their planning application. The local planning authority would review the application and send the Fire Statement along with associated planning documents to the local fire and rescue authority, who would review and return with comments. The Fire Statement is limited in its coverage at gateway one – only looking at the land use issues mentioned above.

34. For buildings which would not seek the views of the fire and rescue authority (in the absence of gateway one), it is estimated that the fire and rescue authority would spend around 2.5 hours filing, reviewing and commenting on the Fire Statement, with an additional 1.2 hours required if the statement is changing as a result of fire and rescue authority comments. The local planning authority would spend around 0.5 hours issuing the Fire Statement to the fire and rescue authority, and reviewing fire and rescue authority comments, with an additional 0.5 hours required if the strategy needs amending as a result of fire and rescue authority comments.

35. Taking into account the current practice already existing for some developments, the average time cost of gateway one is estimated to be around £140-£230 per new development over 30 metres, with £185 as the central option (with a Client cost of £127, planning officer cost £24 and fire and rescue authority watch manager cost of £35). The total average annual net cost is estimated to be £10,000.

Plans in the near vicinity of a 30 metres and above residential building

36. There is a cost of checking whether a proposed site location is in the set radius of the 30 metres and above residential building as it would be the new requirement. A risk-based approach could be taken with the burden on the applicant if they had not identified this. If the radius was set at 150 metres (as the maximum proposal), it is estimated that 1% of major development applications would be in the vicinity⁸². 90% would not require revision after review from the fire and rescue authority. The remaining 10% would receive comments from the fire and rescue

⁸⁰ Gateway one applies only to 30m and above buildings.

⁸¹ This does not include the vicinity search costs or delay costs.

⁸² This is the maximum proposed option in the gateways section and could be less if evidence supported a lower threshold – government has not indicated a preference between the options.

authority, therefore require revision. The total annual average net cost of this is estimated to be around £3 million - £4.5 million.

Early engagement with bodies overseeing a new regime on full plans submissions

Scope: This will apply to 18 metres and above new build residential buildings.

37. Developers may wish to engage with the bodies overseeing a new regime on full plans submissions on compliance with building regulations at some point before they submit their full plans at gateway two. This is estimated to cost around £2,000-£5,000 per building, split between the principal designer project manager and a building control officer. The total net cost of this is estimated to be around £1.3 million per annum (central estimate).

Gateway two costs

Scope: Gateway two will apply to new and refurbished residential buildings 18 metres and above. Two options are being put forward for gateway two, a full plans approach and a staged approach.

38. Under the local authority building control route, developers are already required to provide full plans where the Fire Safety Order will apply to the building once in use – this is not however a legal requirement under the Approved Inspector (AI) route. However, in order to be able to perform the building control function properly, we expect that AIs nonetheless require developers to submit full plans. If full plans are required before any work begins on site (irrespective of which building control body a developer selects), gateway two will take an estimated 31 days (full time equivalent) to complete, with a time cost of £9,000-£22,000 per building. 55% of this fall on to the building safety regulator and 45% on industry. This includes preparing the phasing diagram for inclusion with the full plans, principal designer review of full plans, building safety regulator review of full plans, and construction control plans for both industry and building safety regulator.

39. Requiring full plans increases the risk of delays, which have been estimated to be between 0-24 weeks. A 10-week delay (central estimate) has been estimated to cost around £114,000 per building, in addition to the existing gateway costs.

40. Under the full plans option, the equivalent annual net cost is estimated to be around £5.2 million for the central estimate (not including delay costs).

41. If the staged approach option is introduced, gateway two will require an estimated average of 27 days (full time equivalent) to complete, with an average total time cost of £10,000-£16,000 per building, assuming two staged plans are submitted⁸³. This includes the time to prepare reports at each stage, and for the building safety regulator to review the submission. Full plans are also prepared and reviewed, and construction control plans must be assessed, prepared and issued.

42. A staged approach means that the risk of delays to the building process is reduced. For example, as the full design doesn't need to be fixed as early, the

⁸³ The two stages are the stages once building commences on site. There is also an initial stage to start foundations.

risk of late design changes and the associated delays are reduced. However, delays may still exist, and so, in the high scenario only, a delay of 1-2 weeks has been assumed, estimated to cost around £17,000 per building.

43. Under the staged approach option, annual net cost is estimated to be around £4.5 million.
44. In addition to gateway two, developers will be required to record minor changes and submit major safety changes to the building safety regulator who will undertake regular site inspections. If major changes are assumed for a building, 150 hours are estimated from industry to prepare and respond to safety changes. Around 20 hours are estimated for the building safety regulator to conduct site visits (required for half of safety change notices) and issue the safety change notice. Regular site inspections and audits incur costs - inspections requiring 0.5 days a week from the site inspector throughout the build, and 1.25 days per month for the building inspector.
45. These additional requirements cost a total of £18,000-£32,000 per building and require 100 days of work (full time equivalent), of which 70% come from industry. The equivalent annual net cost of this requirement is estimated to be around £11.1 million for the central estimate.

Gateway three costs

Scope: Gateway three will apply to all new and refurbished residential buildings 18 metres and above.

46. Gateway three is estimated to have a time cost of £13,000-£43,000, for a total of 55 full time equivalent days of work per building. For the central option, at gateway three, the principal contractor is expected to sign a declaration confirming that the building complies with building regulations and that key safety information has been handed back to the Client. The time taken has been estimated as: A Change Control Plan (11 hours), 'As Built' plans (28 hours), Safe for Occupation phased submissions (28 hours), Resident Engagement Strategy (13 hours, including time to respond to comments), and Safe for Occupation notice (1 hour). Fire and Emergency Files and Finalised Evacuation Strategy are already required and so will not be an additional cost for industry. The accountable person in occupation will then need to register with and obtain a building safety certificate from the building safety regulator and provide the above information as part of this process.
47. The equivalent annual net cost of this is estimated to be around £8.5 million (central option).

Approach summary

48. Our estimate for the number of new builds and refurbishments for residential buildings 18 metres plus that would be subject to the gateway requirements is 330 in year 1, rising to 450 in year 10 for both, as we have assumed a 3% of stock rate for both new build and major refurbishment.
49. Indicative hours and cost have been estimated for a typical development containing two residential buildings 18 metres and above.

50. The costs of introducing gateways one to three depend upon the amount of checking and preparatory work currently required to meet the new requirement beyond that which is already required. Gateway one relates to the planning process, while most extra work will relate to the building regulations to meet gateways two and three. For the preferred 'staged' approach the total extra over time for all gateway policy and all professions, including the building safety regulator, is around 190 days with an estimated time cost of £72,000 per new build residential building 18metres and above (range £43,000-£111,000), and £21,000 per building for a major refurbishment (range £13,000-£30,000). Over 80% of the extra time and cost is during the construction process between gateways two and three and for gateway three. For the overall policy change, there is an average annual cost of £33m for new build and refurbishment (including £9m for regulator costs which we anticipate could be cost recovered).

Table 5: Summary of costs (central estimates), England 2019

	Gateway one	Gateway one to two: pre-application guidance	Gateway two Option 1: Full Plans	Gateway two Option 2: Phased approvals	Gateway two to three: inspections	Gateway three
Scope	Developments 30m and above, new build residential	Buildings 18m and above, new build residential	Buildings 18m and above, new build residential	Buildings 18m and above, new build residential	Buildings 18m and above, new build residential	Buildings 18m and above, new build residential
Average time cost per unit	£186	£4,000	£15,000	£13,000	£31,000	£24,000
Potential delays			£114,000 ⁸⁴	n/a ⁸⁵		
Annual average cost per annum ⁸⁶	£10,000	£1,316,000	£5,467,000	£4,728,000	£11,128,000	£6,828,000

⁸⁴ Delays for the full plans approach are estimated to be between 0-24 weeks. A 10 week delay has been costed as the central option.

⁸⁵ For the staged approach, no delays have been assumed for the central option.

⁸⁶ Does not include delay costs

Safety cases

As set out in the consultation document, a safety case should be a structured argument that goes beyond a risk assessment and demonstrates that fire and structural risks are being managed so far as it is reasonably practicable. It needs to be supported by a body of evidence and must show a compelling case that the building is safe for occupation and use. Moreover, safety cases should be kept under constant review. We have carried out analysis on the costs of safety cases and also captured the associated remediation costs.

51. The cost of the safety case regime is £96m per year for existing buildings 18 metres and above. The costs comprise the production of safety cases (£77m), cost of additional remediation (£11m) and costs to a regulator (£8m).
52. Our analysis suggests that for these buildings, there is likely to be additional remediation costs (not captured in the above total) of around £62m per annum (central scenario) over the next ten years. This reflects the remedial work being triggered by safety case reviews of existing stock to identify a backlog of poor workmanship, damage or lack of maintenance. These are works to bring existing buildings up to relevant existing standards. They are addressing a deficit in proper attention to compliance in the past, not imposing new standards or new requirements. The remedial works is likely to be fire stopping and compartmentation, fire doors, facades, cavity barriers, sprinklers, and automatic fire detection. Table 6 sets out a summary of the costs.

Table 6: Summary of costs, England 2019

	Cost per building, existing builds, £'000	Cost per building in occupation (new builds), £'000	Safety case review costs (per existing builds), £'000	Total Cost per annum, £m
Safety cases costs (Dutyholder costs)	£13- £32	£1.6- £2.8	£1.2- £1.7	£58-£98
Remediation costs (without non-compliance)	n/a	n/a	n/a	£3-£22
Non-Compliance remedial works	n/a	n/a	n/a	£32-£109
Regulator costs	n/a	n/a		£6-£10
Total				£99- £240

53. For existing builds, we assume that it takes 12 -24 days to prepare a safety case. The costs also include surveys including intrusive surveys. For new builds we assume it takes 4-7 days to prepare a safety case. There are no associated surveys costs for new builds. The costs of reviewing safety cases is £1,500. We assume it takes 1-3 days for a dutyholder to submit a review of safety case which includes assessments and surveys costs.
54. The building safety regulator ensures the suitability of safety cases and that the building safety risks are being proactively reduced using “so far as is reasonably practicable” (SFAIRP) principles. The unit costs to submit to the building safety regulator for safety cases across 18 metres and above residential buildings is approximately £1,200. There are associated costs to the building safety regulator in terms of checks and verification of safety cases. The total annual average regulator costs is £8m (central estimate).

Key assumptions

- We have assumed that all new builds (that have gone through gateways) have a safety case and 20% of the existing stock submit a safety case each year as part of the building registration process. Once the initial safety cases are carried out, each building will have a five yearly safety case review.
- When costing for total remediation, we have factored in how much of the remediation triggered by safety cases are works that would have already happened (i.e. should belong in the counterfactual), and in addition, the proportion of net remediation costs that are genuinely additional new works and the proportion that is a result of non-compliance with the current regulations. The appraisal period for the remediation works is 10 years.
- In calculating the remediation costs we have applied SFAIRP principles. In practice, SFAIRP means that the risk has been reduced to the lowest level achievable, without incurring disproportionate costs.
- In terms of costing we have considered remedial works that are likely to be required to reduce fire related incidents such as the following but not limited to this list: sprinkler retrofit, replacement of fire doors, means of escape arrangements, compartmentation and fire stopping, smoke control, fire detection, emergency power source, fire signage, ducks and dampers, emergency power source, voids and shafts, facades, cavity barriers, external fire risks , plant and other ancillary, firefighting facilities, etc.

Golden Thread

The Government believes that a golden thread of accurate and up-to-date information about the design, construction and ongoing maintenance of residential buildings in scope, in line with the recommendations in the Independent Review, is necessary to support building safety. We have monetised the impact of this policy in the section below.

Residential buildings (new build)

55. We have modelled costs for meeting the golden thread requirements during design and construction that do not already use Building Information Modelling (BIM) level 2 and a Common Data Environment (CDE). For affected 18 metres

and above residential buildings we expect the unit cost of digitalising information to be £42,000 - £64,000.

56. Firms that already comply with BIM level 2 standards and use a CDE will not see additional costs during the new build process to ensure all gateway documents are digital.

Residential building (existing)

57. Dutyholders (for buildings constructed before regulations came into force) will have to gather information required by legislation to meet licencing and safety case requirements. This information must be held digitally and can be gathered in two ways depending on the level of documentation available.
58. We have assumed that buildings that currently have inaccurate plans⁸⁷ will carry out a 2D CAD plan and evaluation drawing, costing between £10,000-£19,000 per building. Buildings that lack most or all of their building information will carry out laser scanning and photogrammetry to create a 3D BIM model, costing in total £16,500-£30,000 per building. This information would be updated annually at a cost of £400-£600 per annum⁸⁸, to ensure plans are kept up to date.

Maintaining the golden thread during occupation

59. Building information will have to be kept up to date once the building is completed or full plans have been digitalised. We have costed two alternative ways buildings owners could comply with the golden thread requirements. The first is maintaining a CDE via BIM, estimated to cost around £15,800-£16,700 per annum per building. The second option freezes the BIM model in time and stores the building structure in a cloud server. The estimated annual cost of this option is £1,000 for cloud storage and a one-off transfer cost of £3,000 when the construction is finished.

Major refurbishment works

60. The golden thread requirements for carrying out major refurbishments are not fundamentally different from the requirements for new builds. BIM level 2 standards will have to be used, and documents required for gateways two and three will have to be digital to be compatible for golden thread.
61. As with new builds, the majority of refurbishment projects are expected to use BIM level 2 and a CDE already, so they will not see additional costs. However, a small number are not, and these firms will have a total cost of complying for a refurbishment of £17,000 - £27,000 per building. The costs differ from new build because refurbishments are shorter projects and therefore have lower license costs and less data entry.

⁸⁷ The number of buildings with inaccurate or incomplete plans is an estimate based on the age of residential high-rise buildings.

⁸⁸ Cost reflects time required to produce products and update information.

Key dataset

62. The costs of creating and maintaining an up to date key dataset are £550-£1,170. All buildings with a key dataset will be required to keep this up to date as elements of the building change. This will cost £170 - £260 per building.

63. The total average cost of the golden thread and key dataset policy, on all affected high-rise residential buildings 18 metres and above is £40m-£80m per annum. The aggregated annual costs is summarised in Table 7:

Table 7: Summary of costs, England 2019

	Total cost per annum, £m
Upgrading to BIM level 2 and the Common Data Environment ⁸⁹	0.9-5.2
Completing key dataset during construction ⁹⁰	0.6-0.9
Digitalising full plans and creating key dataset (existing buildings) ⁹¹	23.6-41.4
Maintaining the golden thread and key dataset during occupation ⁹²	14.4-28.8
Total	39.5-76.4

⁸⁹ Buildings affected by this include a subset of new build and major refurbishment works that do not already use BIM and a CDE

⁹⁰ Buildings affected include all new build and major refurbishment works

⁹¹ Buildings affected include all buildings constructed before the policy came into force

⁹² Buildings affected include all completed buildings

Key assumptions

- The costs are modelled on a high-rise residential development project with 150 units lasting 2.5 years for new build and 1 year for major refurbishments. Software and licencing costs are based on quotes from industry, with a Common Data Environment (CDE) costing £33,600-£50,800 per new build development. Projects that already use BIM level 2 and a CDE will not see additional costs as they would already be compliant, with the proportion based on the National BIM Report 2018 by NBS.
- Dutyholders of existing buildings will digitise their plans with either a 2D CAD model (£10,000 - £19,000) or a 3D BIM model (£16,500 - £30,000). We assume buildings with inaccurate plans will implement CAD and buildings with incomplete or no information will go with a 3D model. It is assumed this will be done for 20% of existing buildings each year, over 5 years.
- We have modelled two methods for storing information during occupation. The first is using a 3D BIM model, which would require a BIM licence, costing £14,400 per annum and formal BIM for asset manager training, costing £495. The second is use of cloud storage, which assumes 3TB of data is used at £75 per month and would include a handover costing £3,000.
- The key dataset will take between 10-22 hours to complete, depending on the ease with which the information can be accessed. It will take 6-9 hours to keep this up to date each year.

Mandatory occurrence reporting

There is currently no mandatory or legal requirement on people involved in the construction in high-rise residential buildings to report building safety critical issues with the result that valuable opportunities for learning, as well as information gathering and analysis that would contribute to the overall health of the system, are missed. We propose implementing a system of mandatory occurrence reporting to the building safety regulator for all buildings in scope of the new regime which we have monetised below).

64. This policy is estimated to cost £30-£150 per building (depending on if the building is in construction, occupation or refurbishment). The total cost for mandatory occurrence reporting is estimated to be around £440,000-£660,000 per annum. 70% of this is attributed to the industry and 30% to the building safety regulator.

65. For new builds, existing buildings and refurbishments, the average cost per report is £100, £194 and £95 per report respectively. The average cost⁹³ per new build, per existing buildings and per refurbishment is estimated to be around £100-£150, £30-£40 and £100-£150 per building per annum respectively.

⁹³The average cost per building is calculated by dividing the total cost of reports per annum in new builds by the total number of new builds per annum.

Key Assumptions

- Across all buildings during new build construction, there have been estimated to be an annual industry average of 95 individual reports, 225 initial and closure reports, and 140 reports with an open, update and closing reports that will be required.
- Across all buildings in occupation, it is estimated that, per year, 1,000 individual reports, 1,640 open and close reports, and 465 reports with an open, update and closing report will be generated on average.
- 10 additional days per quarter for the building safety regulator is assumed to analyse the data on the issues reported to them and produce a quarterly report. This cost is included in the per report cost.

Residents' Voice: Escalation, Engagement and Information

The safety of residents is of paramount importance and the Government is determined to ensure that the views and interests of residents are at the heart of the new building safety regulatory framework. To achieve this step change Government has proposed the below requirements which have been costed. They are providing relevant information to the residents in clear format, developing a Resident Engagement Strategy and addressing concerns through an escalation process.

Table 8: Residents' Voice estimated costs

Policy Area	Stakeholder	Cost per building, £'000	Total cost per annum, £m
Residents Information	Industry	0.5 – 0.9	5.9 - 11.9
	Regulator		
	Total	0.5 – 0.9	5.9 - 11.9
Residents engagement	Industry	2.4 – 4.8	31.5 - 63.0
	Regulator	0.1 – 0.2	1.1 - 2.1
	Total	2.5 – 5.0	32.5 - 65.1
Residents Escalation	Industry	2.2 – 4.3	28.3 - 56.5
	Regulator	0.1- 0.2	1.5 - 3.0
	Total	2.3 – 4.5	29.8 - 59.6⁹⁴
Analysis and Reporting	Industry		
	Regulator	<0.01	0.03 - 0.07
	Total	<0.01	0.03 - 0.07
Total	Industry	5.0 – 10.0	65.7 - 131.4
	Regulator	0.2 – 0.4	2.6 - 5.2
	Total	5.2– 10.4	68.3 - 136.7

66. The building safety regulator will spend 13 days per annum across 18 metres and above residential building stock analysing complaints to identify systematic

⁹⁴ All figures have been summed before rounding to present the most accurate data and therefore some rounded totals will be inconsistent with the underlying numbers in the table.

issues. This will involve trend analysis and identification of dutyholders who 'over feature'.

Analysis and reporting by the building safety regulator

67. Analysis and reporting by the building safety regulator will identify systemic issues and poor performance of dutyholders enabling them to hold them to account so problems do not persist.

Key Assumptions

- We assume a dutyholder will spend an estimated 7-8 days per building per annum developing and disseminating materials in new builds and existing stock. We estimate roughly 40% of the proposals for resident's information are currently being undertaken by building owners and this has been taken into account in the costs.
- We assume a dutyholder will spend 2.5 days per building setting up the Residents Engagement Strategy and 16 days per building per annum delivering the engagement policy. 0.5 days per building per annum will be spent by the building safety regulator signing off the Resident Engagement Strategy for a building.
- We assume additional dutyholder engagement of 10 days per building per annum before, during and after a maintenance, refurbishment or procurement event.
- The costs take into account that building owners are currently undertaking some of the actions involved in the proposals set out for resident's engagement (roughly 20%).
- We assume 5 days per annum per building spent by a dutyholder setting up the escalation policy requirements. The building safety regulator will spend 0.4 days per annum per building signing off the reporting system. Setup costs will be a one-off cost only incurred in the first year.
- A dutyholder will spend 17 days per annum per building dealing with issues raised. Issues deemed a severe safety concern will be escalated to the building safety regulator who will spend less than 1 day per annum per building addressing.
- There will be 1-14⁹⁵ new safety related issues raised to a building safety manager to resolve per building per annum. Of these, 10-20% are escalated to the building safety regulator.
- Where the escalation process reaches stage of non-compliance, it is assumed that the sanctions process will be triggered. This is not costed here.
- The costs take into account that building owners are currently undertaking some of the actions involved in the proposals set out for resident's escalation (roughly 15%).

⁹⁵ Based on conversations with major Registered Social Landlords. A wide range has been used to reflect the range of different buildings the policy will cover.

68. We accept that the overall costs presented for resident's voice here is potentially an over estimate and we would like to use this consultation to gather further evidence on this. In particular, we will look to do further analysis of the counterfactual to understand better what is already happening now. This will be refined as part of the forthcoming Impact Assessment.

Construction products

In order to improve and ensure the safety, quality and performance of construction products used in buildings, the Government has proposed a series of regulatory changes governing non-harmonised construction products. These include new labelling and testing requirements for construction products, as well as a new national surveillance body to monitor compliance to Construction Products Regulations. Although the impact has been estimated to all products, our proposals are to extend regulation of construction products in a limited way initially, starting with an inventory approach that applies to products for which a statutory requirement in building regulation already exists to meet a standard.

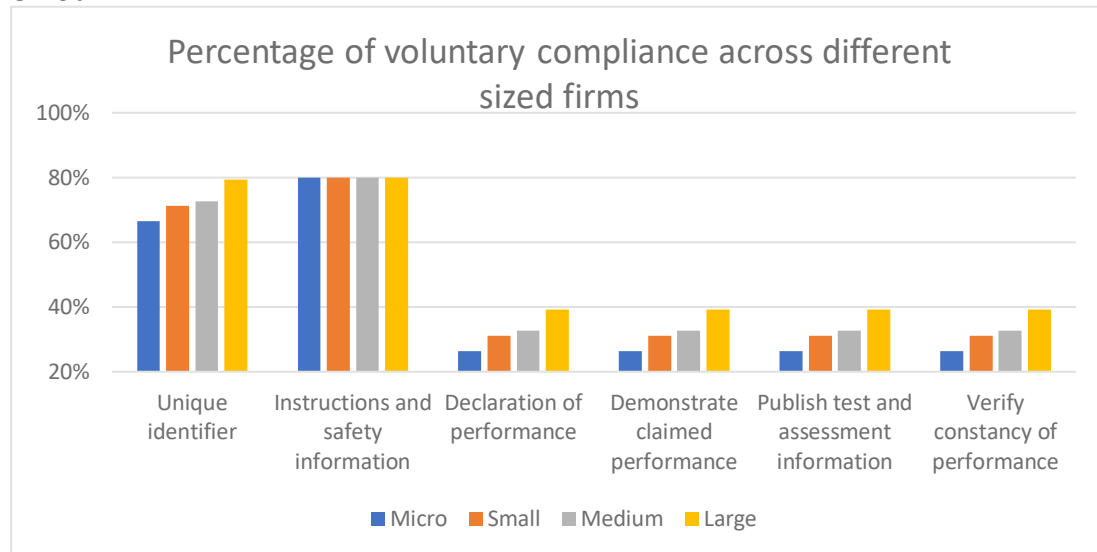
Scope: This analysis takes into account the impacts of the construction industry of the proposed building safety regulatory framework governing non-harmonised products applying this policy to all construction products.

Current levels of compliance

69. Our analysis considers what the current levels of compliance are within the sector to identify the net economic impacts of our policies. As set out in Chart 2, the majority of firms already assign unique identifiers, and instructions and safety information to their products.⁹⁶

⁹⁶ Product recall has not been included in this assessment of compliance as our analysis shows that over 99% of firms do not experience product recalls.

Chart 2: Percentage of voluntary compliance to each policy across different sized firms



Source: Adroit Economics Consortium

Table 9: Estimated costs of each of the policy proposals, England 2019

Policy	Cost type	Breakdown	Cost (£m)	Equivalent annual cost (£m)
Unique identifier	One-off costs	Firms redesigning product labels	2.8-4.2	2.4-3.7
	Annual recurring costs	Updating unique identifier (annually)	2.1-3.1	
		Administrative costs	0.3-0.5	
Instructions and safety information	One-off costs	Preparing instructions and designing leaflets	2.0-3.0	0.4-0.6
	Annual recurring costs	Preparing instructions for new products	0.2-0.3	
Declaration of Performance (DoP)	One-off costs	Administrative costs of publishing DoP and Procurement costs in getting external companies to develop test standards	38.9-58.4	8.1-12.1
	Annual recurring costs	Administrative costs of publishing for new products	4.0-6.1	
Demonstrate claimed performance	One-off costs	Administrative costs in producing written assessments and full-scale tests	19.5-29.2	8.2-12.3
		Third party testing and written assessment costs	15.2-22.9	
		Design and prepare test information for publishing	6.8-10.2	
	Annual recurring costs	Administrative costs to producing Test evidence for new products	1.9-2.9	
		Producing written assessment to support minor changes	1.2-1.8	
		Administrative costs for publishing information for new products	0.7-1.0	
Meeting claimed performance standards	One-off costs	Factory visits and testing product samples	19.5-29.2	20.4-30.6
	Annual recurring costs	Administrative costs and verification costs	5.8-8.8	
		Inspections and reporting	14.7-22.1	
Product recall	Annual recurring costs	Recall costs	0.2-0.3	0.2-0.3
			Total	39.8-59.7

Cost

70. The total additional cost for all firms to comply with the policy proposals is estimated to be around £50m per annum (central estimate), representing approximately 0.12% of the value of construction products (£40bn per annum).
71. Limiting the analysis to construction products for high-rise (18 metres and above), the cost is £3.2m – £4.8m per annum.
72. Larger firms are likely to be already compliant with the CPR, which somewhat lowers the costs compared to smaller firms. Overall the cost per firm for larger firms will be higher because of coverage of multiple products.
73. With respect to general quality requirements, it has not been possible to monetise the cost of meeting these requirements as the cost of redesigning the product to improve the quality vary substantially depending on the product and the type of defect. However, the estimates for increased testing that may be undertaken to demonstrate the claimed performance of a product has already been included in Table 9.

Key assumptions

- The unique product identifier (UPI): This is a numerical identifier with 10-15 digits, including details such as the brand, part number and item number. The UPI would be printed onto the product/or product packaging. The data would be stored digitally, either by the firm, or on a system managed by industry/building safety regulator.
- Instructions and safety information: Many construction products already include information on how to use the product as well as safety information – therefore the proportion of products that will have to produce additional information is limited.
- Declaration of Performance: This would typically involve drawing up or filling in a declaration of performance standard template, similar to the one found in Annex 3 of the EU CPR.
- Testing: The test and assessment information should be relatively low cost to provide on a website. It will be one of two documents, and this information is not provided with every product but would be available from the manufacturer if requested.
- Testing: The cost of product testing will be the same for all firm sizes. However, in reality larger firms are expected to incur most of the costs for developing new standards.

Third party certification costs

Third party schemes provide independent assurance of the quality and performance of products. The Government proposes to encourage manufacturers to use these voluntary assurance schemes in order that the safety of products used is more rigorously scrutinised.

Scope: Third party certification is voluntary for manufacturers. For this analysis we have examined current assurance and testing schemes for a sample of four products (fire doors, fire ducts (and vents), windows and cladding). However, we have not assessed the potential costs for the new voluntary minimum requirements for third party certification schemes that are being developed. Therefore, the costs presented below are for illustrative purposes only for the products stated here. We have not attempted to estimate aggregated costs for all products that may be impacted.

The current situation (CE Marking)

74. Fire ducts (and vents) and windows have harmonised standards and must have CE marking according to the Construction Products Regulation (EU 305/2011) (CPR). Fire doors can hold CE marking, but it is not yet compulsory. Currently, the cladding system doesn't fall under the CPR so does not have CE marking.
75. In order to be compliant with CE marking requirements, firms need to pass a number of tests specific to the product. These are estimated to cost £25,000 for fire doors, £30,500 for fire ducts (and vents) and £36,000 for windows.
76. Firms producing fire doors and fire ducts (and vents) need to demonstrate consistency of performance at the highest level. This includes factory inspection (£1,300), surveillance of production (£2,000-£3,000 per audit every three years), reporting product determination (£2,000-£3,000), sample testing (£25,000 or fire doors or £30,500 for fire ducts (and vents)) and certification (£1,300) to obtain CE marking.
77. There are fewer consistency of performance requirements to obtain CE marking for windows. Firms incur costs in reporting product determination (£2,000-£3,000) and certification (£1,300).

Third party certification schemes

78. This provides manufacturers, building owners, residents and regulators with ongoing assurance of the performance of products.
79. For fire doors firms would only incur additional costs in audit testing (£4,000-£8,000) and certification (£1,300) for Certifire third party certification.
80. For fire ducts (and vents), firms would only incur additional costs in audit testing (£4,000-£8,000) and certification (£1,300) to obtain BAA/Kitemark third party certification.
81. For windows, firms would have to incur additional costs for factory inspection (£1,300), surveillance of production (£2,000-£3,000 per audit every three years), sample testing (£36,000, this could be higher for multiple product variations), audit testing (£4,500) and certification (£1,300) to obtain BAA/Kitemark third party certification.
82. For cladding, as there are currently no CE marking requirements, firms would need to conduct specialised product testing (£126,000), factory inspection

(£1,300), surveillance of production (£2,000-£3,000 per audit every three years), reporting product determination (£4,000-£6,000) sample testing (£126,000, this could be higher for multiple product variations), audit testing (£10,500) and certification (£2,000) to obtain SCI Certification.

83. Table 10 shows the estimated additional costs incurred for these products of obtaining third party certification where CE marking requirements are already being met. For cladding it shows the estimated costs of obtaining third party certification.

Table 10: Third party certification estimated costs, England 2019

	Fire doors	Fire ducts (and vents)	Windows	Whole cladding system
Counterfactual Total costs to meeting CE marking requirement (per firm)	£57,600 <i>plus audit costs of £2,000-£3,000 every 3 years</i>	£68,600 <i>plus audit costs of £2,000-£3,000 every 3 years</i>	£39,800	NA
Additional cost to meet third party certification scheme	£7,600 <i>plus audit testing costs of £4,500-£8,000 every 3 years</i>	£7,600 <i>plus audit testing costs of £4,500-£8,000 every 3 years</i>	£48,100 <i>plus audit costs of £2,000-£3,000 every 3 years</i>	£273,300 <i>plus audit costs of £2,000-£3,000 every 3 years</i>

Source: Adroit Economics Consortium

Key assumption

- Firms will use the same organisation for CE marking and third party certification. If firms have already completed the testing to meet CE marking requirements, most of this evidence can also be submitted for third party certification. If these two organisations are different, the cost is likely to be higher due to tests having to be completed again.

Data and Assumptions

84. All key assumptions underpinning the analysis in this document have been sourced largely from Adroit Economics Consortium, based on their extensive industry expertise and experience of the sector, under contract to and with oversight by MHCLG. This has involved initial testing of various assumptions with stakeholders.
85. To enable us to do a 10-year appraisal we needed to estimate the number of new builds and major refurbishments happening each year. The build rates reflect what is currently happening in the sector and what we think will happen over a 10-year period.
86. All of the analysis carried out uses a 10-year appraisal period and is discounted by 3.5% in line with HMT's Green Book principles. Due to the short appraisal period used, it is likely that the initial analysis might be skewed against benefits that accrue over a longer period of time. We will be considering, post-consultation, whether a longer appraisal period is more ideal which may impact on the magnitude of costs and benefits.
87. The counterfactual (do nothing) scenario has been considered carefully such that the analysis set out here reflects the net impacts of the policies over and above the counterfactual.

Annex A(i):

Table 11: Summary of costs, England 2019

	Average annual cost (£m)	Average annual cost – other (£m) ⁹⁷	Average annual cost – building safety regulator (£m)
Gateways	23-54	16-42	7-13
Dutyholder	63-95	60-89	4-5
Golden Thread	39-76	39-76	-
Safety Cases	67-130	61-120	6-10
Mand. Report	0.5-0.7	0.3-0.5	0.15-0.23
Sanctions	11-17	6-9	5-8
Products	40-60	40-60	-
Residents Information and Engagement	38-77	37-75	1-2
Residents Escalation and Reporting	30-60	28-57	2-3
<u>Total</u>	312-570	288-528	25-42

⁹⁷ Other category includes average annual costs falling to social owners, private owners/ leaseholders and developers/ industry.

Annex B: Rate of fires, fire-related fatalities and casualties requiring hospital treatment in different types of building

Data from Ordnance Survey AddressBase®⁹⁸ and incident recording system (IRS)⁹⁹ data were used to calculate:

- the rates of fires in different types of building; and
- the rates of fires involving fire-related fatalities or casualties requiring hospital treatment in different types of buildings.

Property types used in the IRS were matched with AddressBase® classifications to create 24 distinct property types of interest (R = residential, NR = non-residential).

Table A1: Examples of buildings in each property type

Property type	Examples
Agricultural buildings	Non-residential and permanent agricultural buildings such as barns
Animal care	Vets, shelters, kennels, stables
Apartment/flat	Includes unregistered HMOs, retirement villages, independent living etc
Car park	Covered only
Care home	Registered only – for any group (for example age or disability)
Education (NR)	Schools and universities – not including dormitory buildings
Education (R)	Boarding school accommodation, student hall of residence
Emergency services	Lifeboat services, coastguard, mountain rescue, lighthouse, police / transport police, fire and rescue services, ambulance, air sea rescue
Entertainment culture and sport	Cinema, club, theme park, museum, gallery, community centre, sporting venues – indoor and ancillary outdoor
Food and drink	Restaurant, take-away, pub, cafe
HMO	Registered houses of multiple occupancy ¹⁰⁰
Holiday let	Holiday let, accommodation, short-term let (that is not hotel)
Hospitals	By building not whole hospital complex, includes onsite accommodation for nurses/doctors
Hotel	Hotel, B&B, hostel, guest house
Industrial premises	Industrial processing, manufacturing, warehouses and bulk storage - all materials, mines and quarries – buildings above ground, public utilities, laboratory/research establishment
Office and public buildings	Law court, office, studio, embassy, local government service, broadcasting (TV / radio)
Other medical	Doctor surgery, dentist etc
Prison	Prison, detention centre, secure residential accommodation
Religious (NR)	Chapel of rest, crematorium, mortuary, place of worship (all)

⁹⁸ <https://www.ordnancesurvey.co.uk/>

⁹⁹ <https://www.gov.uk/government/statistics/fire-and-rescue-incident-statistics-england-year-ending-september-2018>

¹⁰⁰ A house of multiple occupancy is defined as having more than one household (unrelated residents) however different Local Authorities have different registration requirements depending on the number of households

Religious (R)	Monastery/convent
Retail	Shop, bank, markets (indoor / outdoor), petrol station, garden centre
Supported/Sheltered housing	Homeless shelters, supported living, retirement homes
Single dwelling	House (detached, semi-detached, terraced), caravan, house boat, privately owned holiday caravan / chalet,
Transport buildings	Train station, airport, docks, ferry terminal, bus/coach station

While this analysis provides an in-depth assessment of fire risk in buildings using the best available data, the following points should be noted: TOID¹⁰¹ references and classification dates were used to obtain building counts for each year. In some cases, particularly in large complex buildings such as shopping centres or apartment blocks, the TOID reference may overestimate the number of buildings. In addition, in some cases a building may have existed but not yet been classified correctly. The best estimate is that this may affect around 10 per cent of buildings. Due to mixed commercial and domestic use properties, for example a newsagent on the ground floor of an apartment block, some buildings may be counted in multiple categories.

Building height is not recorded in the IRS therefore data from a field that records 'number of floors above ground' has been used. A four-storey building is estimated to be 11m, six storeys as 18 metres, and 10 storeys as 30 metres. Quality assurance conducted on this field for purpose-built flats found a 20 per cent error rate that is assumed to be consistent across all property types.

Few fires result in fatalities. In all property types during the period October 2011 to September 2018 0.5% of fires (1,423 out of 307,697) resulted in a fatality and fewer in multiple fatalities (0.02% of fires; 70 out of 307,696). Given the low numbers it is not possible to conduct detailed analysis of fatal fires only. To better understand the risk of fire and the *potential* for risk to life the rate of fires, and fires with a fatality or casualty requiring hospital treatment across a wide range of buildings were calculated.

Table A2: Rates of fire per 1,000 buildings for the combined years ending September 2012 to 2018

Property type	Any height	0 to 11m	>11 to <18m	≥18 to <30m	≥30m
Agricultural buildings	32	32	29	0	714
Animal care	5	5	6	0	0
Apartment/flat	9	7	22	43	366
Car park	18	19	22	9	14
Care home	22	21	69	0	0
Education (NR)	19	18	34	20	60
Education (R)	56	32	130	158	501
Emergency services	23	21	49	43	57
Entertainment culture and sport	10	10	18	11	10
Food and drink	20	20	23	6	20
HMO	6	6	13	12	65
Holiday let	3	3	2	0	0

¹⁰¹ Topographic Identifier used by Ordnance Survey to reference all mappable features.

Hospitals	263	205	783	574	2,258
Hotel	27	20	63	55	157
Industrial premises	8	7	11	11	6
Office and public buildings	6	5	11	10	41
Other medical	8	7	11	4	5
Prison	5,021	4,736	8,435	571	0
Religious (NR)	4	4	3	4	0
Religious (R)	59	40	64	0	0
Retail	6	6	7	2	7
Supported/Sheltered housing	158	147	602	375	491
Single dwelling	1	1	3	1	5
Transport	22	21	43	10	11

Table A3: Rates of fires involving fatality or casualty requiring hospital treatment per 1,000 buildings for the combined years ending September 2012 to 2018

Property type	Any height	0 to 11m	>11 to <18m	≥18 to <30m	≥30m
Agricultural buildings	2.3	2.3	0.0	0.0	0.0
Animal care	0.4	0.4	0.0	0.0	0.0
Apartment/flat	4.8	3.9	10.8	18.7	170.4
Car park	1.4	2.0	0.9	0.0	3.8
Care home	7.1	6.7	32.5	0.0	0.0
Education (NR)	1.2	1.1	2.8	10.6	0.0
Education (R)	8.6	5.1	19.5	27.2	57.7
Emergency services	0.9	0.3	14.5	0.0	0.0
Entertainment culture and sport	0.8	0.7	2.1	0.0	0.0
Food and drink	3.2	3.1	5.0	1.9	2.6
HMO	3.0	2.7	7.7	5.8	42.5
Holiday let	0.7	0.7	1.6	0.0	0.0
Hospitals	48.8	40.8	118.6	23.8	696.4
Hotel	5.4	4.4	12.4	7.7	8.1
Industrial premises	1.2	1.2	1.7	1.2	1.2
Office and public buildings	0.4	0.2	0.8	1.4	7.7
Other medical	0.8	0.7	1.9	0.0	0.0
Prison	1,473.1	1,371.1	2,686.9	0.0	0.0
Religious (NR)	0.4	0.4	1.2	0.0	0.0
Religious (R)	0.0	0.0	0.0	0.0	0.0
Retail	0.5	0.5	0.8	0.0	0.0
Supported/Sheltered housing	61.0	56.3	264.2	135.7	250.0
Single dwelling	0.5	0.5	1.7	0.0	0.0
Transport	1.7	1.8	0.0	0.0	0.0

Annex C: Dutyholder responsibilities

Proposed Duties of Dutyholders and Accountable Persons

All Dutyholders and Accountable Persons

We propose that all dutyholders (Clients, Principal Designers, Designers, Principal Contractors, Contractors) and accountable persons should be required to do the following:

- a. Co-operate and share information with the building safety regulator
- b. Ensure compliance with the building regulations. While this duty already exists within legislation we would make clear that dutyholders are accountable as follows:
 - i. for Clients, making arrangements that are suitable for ensuring that the construction work can be carried out, so far as is reasonably practicable, in accordance with current building regulations;
 - ii. for Principal Designers, to ensure that, when preparing or modifying a design the designer must take into account the current building regulations;
 - iii. for Principal Contractors, so far as is reasonably practicable, construction work is carried out in accordance with current building regulations.
- c. Comply with specific regulatory requirements imposed upon them
- d. Ensure they and the people they employ are competent and only undertake work they are competent to do
- e. Promote building safety and the safety of persons in and around the building (the wording of this general duty mirrors the wording that is set out at paragraph 236 to 240).

In addition to the general duties listed above, dutyholders should have role-specific duties that reflect their unique contributions towards ensuring that buildings are safe. The role-specific duties for Clients, Principal Designers, Designers, Principal Contractors and Contractors are listed below. The role-specific duties for accountable persons are covered in Chapter 3 and are not reproduced here.

Clients

- Make suitable arrangements for managing the building work so as to deliver compliance with building regulations and other building safety requirements including the allocation of sufficient time, resources and prioritisation.
- Appoint in writing a Principal Designer and Principal Contractor with the necessary skills, knowledge, behaviours and expertise to discharge their functions relating to building safety effectively.
- Take reasonable steps to ensure that the Principal Designer and Principal Contractor comply with their responsibilities in relation to building safety as set out in regulation and the general duty.

- Establish the appropriate information management systems to facilitate successful collation of information, completion of work and handover:
 - Creating and maintaining a complete golden thread of information and key dataset
- Ensure that the regulatory requirements of gateway points are met:
 - Gateway 1
 - Submit a Fire Statement
 - Gateway 2
 - Submitting a full plans submission
 - Submitting an initial Fire and Emergency file
 - Submitting an initial Construction Control Plan
 - Submitting an initial golden thread of information, key dataset and 3D digital model of the building (as planned); and
 - Where appropriate provide an assessment of how the building will be safe to occupy in a phased way
 - Gateway 3
 - Submit a complete Construction Control Plan
 - Submit a final (As Built) digital record of the building as part of the golden thread of information
 - Submit a complete key dataset
 - Submit an updated Fire and Emergency File
 - Apply for a provisional building registration
 - Where appropriate confirm that an appropriate handover of information to the accountable person in occupation has taken place;
 - Where the Client intends to become the accountable person in occupation, they must also:
 - Apply for full building registration
 - Submit a Resident Engagement Strategy
- Ensure an appropriate handover takes place between the key dutyholders at design and construction phase and the accountable person in occupation including:
 - Handover of the golden thread of Information and key dataset including relevant information provided as part of the gateway points
- Establish reporting processes to support an effective mandatory occurrence reporting regime.
 - Promote a 'just culture' within their project
 - Ensure reporting systems/mechanisms are in place to identify occurrences identified under mandatory occurrence reporting
 - Report any instances identified to the regulator

Principal Designers

- Plan, monitor and manage the pre-construction phase and coordinate matters relating to building safety to ensure that the project complies with building regulations.
- Satisfy themselves that those involved in supporting the Principal Designer have suitable skills, knowledge, behaviours, experience and where relevant, organisational capability.

- Ensure cooperation between Designers, the Client and the Principal Designer to ensure they can discharge their regulatory responsibilities
- Liaise with the Principal Contractor and share information relevant to the planning, management and monitoring of the construction phase and the co-ordination of building regulations and building safety during the construction phase.
- Take reasonable steps to ensure that Designers are discharging the duties outlined above and promoting the statutory objective.
- Assist the Client in meeting the requirements of gateway points including co-signing at the completion of works stage that to the best of their knowledge the work meets building regulation requirements.
 - Gateway 2
 - Developing a full plans submission in consultation with the Client
 - Developing an initial Fire and Emergency file
 - Developing an initial golden thread of information and key dataset of the building (as planned);
 - During Construction
 - Contribute to the Construction Control Plan, engaging with the Principal Contractor to ensure minor and major changes are considered appropriately and that there is a strong rationale for them
 - Gateway 3
 - Contribute to a complete Construction Control Plan
 - Develop as designed full plans
 - Develop a complete golden thread of information and
 - Contribute to the development of the key dataset
 - Contribute to an updated Fire and Emergency File
 - Co-sign a declaration of compliance confirming that, to the best of their knowledge the building complies with building regulations and that an appropriate handover of information to the occupation dutyholder has taken place

The above information will be part of the safety case for the building.

- Utilise information management system put in place by the Client to:
 - Develop and maintain a complete golden thread of information
- Contribute to an appropriate handover of information to the accountable person in occupation including:
 - Handover of the golden thread of Information including relevant information provided as part of the gateway points
- Meet the requirements of the mandatory occurrence reporting regime, including reporting any instances identified and next steps to the regulator Client and where appropriate Principal Contractor.

Designers

- When preparing or modifying a design they must take into account building regulations and any pre-construction information to meet building safety requirements and con.
- Take reasonable steps to provide sufficient information about the design, construction and maintenance of the structure to assist the Client, other designers and contractors to comply with their regulatory responsibilities.

- Must not carry out work in relation to a project unless they are satisfied the Client is aware of their duties set out in regulations.
- Report safety concerns to the Client, Principal Designer or Principal Contractor.

Principal Contractors

- Plan, monitor and manage the construction phase and coordinate matters relating to building safety to ensure that, so far as is reasonably practicable, the project complies with building regulations.
- Satisfy themselves that those involved in supporting the Principal Contractor have suitable skills, knowledge, behaviours, experience and where suitable, organisational capability.
- Ensure cooperation between contractors, the Client and the Principal Designer to ensure they can discharge their regulatory responsibilities.
- Liaise with the Principal Designer and share information relevant to the planning, management and monitoring of the pre-construction phase and the co-ordination of building regulations and building safety during the pre-construction phase.
- Take reasonable steps to ensure that contractors are meeting the core duties set out above and are promoting the statutory objective.
- Assist the Client in meeting the requirements of gateway points including co-signing at the completion of works stage that to the best of their knowledge the work meets building regulation requirements.
 - Gateway 2
 - Contribute to the development of a Construction Control Plan that sets out how compliance with building regulations will be maintained and how changes will be recorded during the construction phase
 - During Construction
 - Operate a Construction Control Plan, engaging with the Principal Designer and Client (where appropriate) to ensure minor and major changes are considered appropriately and that there is a strong rationale for minor and major changes
 - Gateway 3
 - Develop a complete Construction Control Plan
 - Contribute to the development of a complete golden thread of information on the 'As Built' building
 - Contribute to the development of the key dataset
 - Contribute to an updated Fire and Emergency File
 - Sign a declaration of compliance confirming that, to the best of their knowledge the building complies with building regulations and that an appropriate handover of information back to the Client has taken place
- Utilise information management system put in place by the Client to:
 - Contribute to the development and maintenance of a complete golden thread of information
- Contribute to an appropriate handover of information to the accountable person in occupation including:
 - Handover of the golden thread of Information including relevant information provided as part of the gateway points

- Meet the requirements of the mandatory occurrence reporting regime, including reporting any instances identified and next steps to the regulator Client and Principal Designer.

Contractors

- Plan, manage and monitor construction work carried out by the contractor or by workers under their control, to ensure that, so far as is reasonably practicable, work complies with building regulations.
- Must not carry out work in relation to a project unless they are satisfied the Client is aware of their duties set out in regulations.
- Report safety concerns to the Client, Principal Designer or Principal Contractor.

Annex D: Gateway two information

Full plans

1. We propose that full plans should cover detailed plans/specifications of the building and the engineering solutions that are being used in the construction phase. Our aim is to ensure that Clients provide sufficient information to enable fire and structural safety issues to be assessed, but without imposing disproportionate burdens on them. In order to assess compliance with Part A (structure) and Part B (fire), we recognise that a certain amount of information relating to other parts of the building regulations will be required and are seeking views on what this additional information should consist of. As part of this, we would welcome views on whether the Client could provide information (including competency to perform roles) and their proposed approach to meet the other aspects of the building regulations (e.g. access, energy, security, etc) in general terms.
2. This could include:
 - Detailed plans/specifications in respect of fire and structural safety;
 - More general plans/specifications in respect of all building regulations;
 - Details of the Client, Principal Designer and Principal Contractor and competency to perform these roles;
 - Supply chain information including competency to perform roles;
 - General approach in a design strategy to overall compliance with all the technical requirements of the building regulations (e.g. security, energy, access).

Fire and Emergency File

3. We propose that the Fire and Emergency File should set out the key building safety information, and that it should be updated during the build phase before being transferred to the accountable person in occupation. We propose that it should include the following:
 - **A description of the building and whether it is residential, commercial, or mixed** (covering fire-fighting access and safe egress, proximity to and risk assessment from fire risks) for the fire and rescue authorities' purposes;
 - **A fire strategy** (including objectives, applicable regulations (such as the Fire Safety Order) and standards, the extent of any fire engineering approach, risk analysis of fire scenarios) for the building owner's purposes;
 - Details of **fire protection systems** (including structural protection; compartmentation (internal fire spread); surface spread of flame, smoke control, detection and alarm, fire suppression, access for fire appliances, emergency lighting and signage, emergency power, fire safety management, external fire spread);
 - **An Evacuation Strategy** (covering type of evacuation, egress route plans, fire call points and access to fire-fighting personnel).

Construction Control Plan

4. We propose that the Construction Control Plan should describe how building safety and building regulations compliance will be maintained during the construction phase and how change will be controlled and recorded. We would welcome views on what the Construction Control Plan should include as a minimum. As part of this, it would be helpful to know whether there are aspects of the existing construction phase plan¹ required under the Construction (Design and Management) Regulations 2015 (CDM) that should be applied to it.
5. This could include:
 - Details of the Principal Designer and Principal Contractor;
 - Statement setting out how compliance with all building regulations will be maintained during construction;
 - Statement setting out how compliance with only Part A (structure) and Part B (fire) of the building regulations will be maintained during construction;
 - Details of process for updating sub-contractors on issues/changes during construction;
 - Details of process for sub-contractors keeping Principal Contractor updated during construction, including a requirement to log products with a unique identifier and set out in the final plans where the product are located;
 - Details of the competency of all workers on site;
 - Videos of safety management approach;
 - Statement setting out how minor changes, including to materials will be recorded during construction;
 - Statement setting out approach to submitting major changes, including changes to materials to the building safety regulator for approval before they are implemented on site.
6. In addition to this, we would welcome views on what should be included in the 3D digital model of the building “as planned” and “As Built” - for instance, whether this should include the products and materials that are used.

Annex E: Competence Steering Group

Industry Response Group Competences for Building a Safer Future

Working Group 0 – Overarching System for Overseeing Competence

Final Report

1.00	Composition and lead contributors
1.01	Introduction to WG0
	WG0 was chaired by Scott Steedman, Director of Standards and Executive Director, BSI. Three meetings were held to which a wide range of stakeholders were invited. Separate discussions with other stakeholders provided further insight and advice to inform the conclusions and recommendations. The chair attended meetings of the Joint Regulators Group (JRG) and the Early Adopters Group to discuss the approach and recommendations.
1.02	Lead contributors
	A list of experts and stakeholders consulted in the preparation of this report is provided at Annex A.
2.00	Executive Summary
2.01	WG0 aims to deliver an industry-led proposal for a robust, coherent and comprehensive system of overseeing competence that gives assurance to residents, dutyholders and regulators that those involved in the design, construction, inspection, maintenance and management of Higher Risk Residential Buildings (HRRB) are competent. Annex B provides a diagrammatic representation of the overarching competence system proposed in this report.
2.02	<p>Summary of recommendations</p> <p>Recommendation One: Industry should lead the creation of an HRRB benchmark competence framework covering the core knowledge, skills and behaviours required to work on HRRBs as part of a suite of national standards under the governance of the national standards body against which professional and trade bodies are expected to develop their individual sector-specific or discipline competence frameworks.</p> <p>Recommendation Two: Professional and trade bodies that certify or qualify members against the HRRB competence framework national standards (Rec 1) are expected to maintain a register of those individuals certified under their scheme and to be accredited/licensed by a suitable publicly recognised body such as UKAS, the Engineering Council or other body, subject to equivalent standards of accreditation or licensing being agreed by the Building Safety Competence Committee (Rec 3).</p> <p>Recommendation Three: A strategic, industry-led “Building Safety Competence Committee” should be created comprising representatives of relevant industry bodies, independent experts, building owners and Government. The committee should be appointed or designated by the relevant Government Oversight Body to raise competence by working with and challenging professional and trade bodies to drive gap-filling, promote the equivalence of accreditation or licensing</p>

	<p>systems, issue guidance to dutyholders and the regulator on selecting competent people, provide a space for industry to continue to work collaboratively to drive competence more widely and provide or signpost guidance to industry and the public on relevant legislation, registers and standards relevant to buildings in scope.</p> <p>Recommendation Four: The three key roles that have primary responsibility for building and life safety at each stage of a building’s life-cycle (Principal Designer, Principal Contractor and building safety manager), require competences in addition to any discipline related competences (Rec 1). These additional competences relate to their overarching role to ensure that the design intent of the building is maintained and that workers employed and used in design, construction, refurbishment, maintenance and operation are suitably competent. The competences of these key roles should be developed and maintained as part of the suite of national standards that comprise the competence framework (Rec 1). Market providers that offer to assess individuals against the enhanced competence requirements should be accredited or licensed by UKAS or other suitable body.</p> <p>Recommendation Five: The Government Oversight Body should hold and maintain a register of those qualified to perform the key roles (Rec 4), with the advice of the Building Safety Competence Committee (Rec 3) and provide signposting to the registers held by the professional and trade bodies (Rec 2).</p>
3.00	Industry context
3.01	<p>The Independent Review of Building Regulations and Fire Safety identified a lack of consistency in the processes and standards for assuring the skills of those working on buildings in scope as a major flaw in the current regulatory system. The current competence landscape for those working in the built environment industry is fragmented and complex. While some professions and trades have systems or schemes in place to assure competence, others do not. Competence standards that are used may not be adequate for work on Higher Risk Residential Buildings (HRRBs). In most disciplines the standard pathway to qualification may not adequately cover fire safety or issues specific to HRRBs, such as understanding the ‘whole building’ approach. There are also some disciplines that do not have transparent, consistent and robust systems in place to assure competence. All of this results in a lack of coherence in the overall system and makes it difficult for dutyholders to ensure that they employ competent people to work on buildings in scope.</p>
3.02	<p>Different approaches across industry towards competence standards and assessment result in a focus on individual specialisms without considering how their work interacts with others and a failure to see the building as a single system.</p>
3.03	<p>There is a need for a more coherent and consistent approach to assessing and ensuring competence across all disciplines and a culture change across the whole building industry, so that everyone recognises their responsibility as part of a wider system for delivering safe and high-quality buildings. Such an approach needs to provide oversight of competence in a way that gives assurance to residents, dutyholders and regulators that those involved in the</p>

	design, construction, inspection, maintenance and management of HRRBs are competent.
3.04	In addition, in the current system, responsibility is too widespread among different roles and often there is no single person clearly carrying the primary responsibility for building and life safety at each stage of the building lifecycle. In the context of design, this means there may be no single person responsible for ensuring the overall design intent is maintained throughout periods of construction activity. In use, there may be a lack of competence and authority to ensure that the design intent is not compromised by minor works or poor behaviour and any changes managed appropriately. Individuals in the sector are generally not trained or qualified to work across disciplines to ensure that the quality and integrity of all work is consistent with the desired outcome in relation to maintaining or enhancing building and life safety.
4.00	Responding directly to questions arising from Dame Judith Hackitt's recommendations
4.01	<p>WG0 is responding to recommendation 5.2 (creation of an overarching competence body)</p> <p>In response to the report, the construction industry and fire-safety sector set up the Competence Steering Group (CSG) to develop proposals for an overarching competence body and to raise competence standards within each discipline that works on buildings in scope.</p> <p>In January 2019, a new working group (WG0) was formed, reporting to the CSG to take forward the recommendation for a robust, coherent and comprehensive overarching system to oversee competence requirements across industry. WG0 has held a series of meetings and discussions with over 50 people to gather views and input. WG0 has also sought views from the Early Adopters group, Joint Regulators Group and the Industry Safety Steering Group.</p>
4.02	In this report WG0 is making high-level recommendations for the overarching system for overseeing competence requirements for buildings in scope. WG0 recognises that there are issues that need further consideration and that further work is required on the detail to implement these recommendations. However, the overall concept, illustrated at Annex B, has broad stakeholder support and WG0 proposes that industry continue to work together and with MHCLG to resolve outstanding issues as these recommendations are taken forward.
5.00	Detailed analysis of issues
5.01	<p>Issue 1: The current landscape for competence is fragmented, complex and inconsistent.</p> <p>The industry comprises hundreds of disciplines, many but not all of which maintain schemes for assuring competence (3.01 above). To ensure a common understanding of the importance of quality of work and the impact that individuals may have on the safety of HRRBs there is a need for a coherent, system-based approach to assessing and assuring competence across disciplines.</p>

	<p>A benchmark competence framework standard would provide an overarching structure to map the necessary core knowledge, skills and behaviours required for individuals to work on buildings in scope. Such a standard is essential to identify gaps in individual fields or disciplines across the competence landscape.</p> <p>Industry should work together with other affected stakeholders to define, agree and maintain a framework standard by peer-reviewing individual disciplines competence standards against a consistent set of common requirements, considered appropriate for all individuals working on HRRBs.</p>
5.02	<p>Issue 2: Existing systems for assessing and assuring competence are not necessarily suitable for High Risk Residential Buildings (HRRBs), for example, they may not adequately cover fire safety or issues specific to HRRBs, such as understanding the ‘whole building’ approach.</p> <p>There is a need to raise the bar on competence for all individuals who could impact the safety of buildings in scope through all stages of the building life-cycle. Raising the bar for all individuals requires not only a deeper understanding of the importance of quality of work and impact on safety in the context of a ‘whole-building’ approach, but also culture change to improve behaviours and attitudes of those in industry.</p> <p>A combination of top-down and bottom-up approaches should be taken to improve systems for assessing and assuring competence. The benchmark competence framework standard will provide a basis for raising the bar for all individuals and across all disciplines. The framework standard will need to be supported by individual standards which taken together will create a suite of national standards that provide specific requirements for individual disciplines, roles or activities.</p> <p>The national standards body provides a formal governance process for the development and maintenance in perpetuity of national standards (British Standards) that ensures full stakeholder engagement, open public consultation and consensus. These standards should be regularly reviewed and updated to ensure they continue to be fit for purpose.</p>
5.03	<p>Issue 3: It is difficult for residents, dutyholders and regulators to ensure that those employed and deployed at the relevant stages of a building’s life cycle are sufficiently competent, as different disciplines have various routes for assessing and assuring competence, which are not always clear or consistent.</p> <p>The benchmark competence framework standard will provide for a consistent and equivalent basis for raising the bar on competence both generally and for key roles. Organisations offering certification of individuals should be accredited or licensed by independent bodies such as the national accreditation body (UKAS), the Engineering Council or other bodies as appropriate. Use of certified individuals, whose qualifications are maintained by accredited organisations meeting the benchmark competence framework standard to work on HRRBs would simplify the identification and appointment of competent workers at all stages through the life-cycle of the HRRB. Guidance and signposting should be developed that supports industry, dutyholders, regulators and the public identify the competence qualifications of individuals working on HRRBs.</p>

5.04	<p>Issue 4: In the current system, responsibility is too widespread and there is often not one person carrying the primary responsibility for building safety at each stage.</p> <p>Each of the key dutyholder roles in HRRB projects should have the primary responsibility for and oversight of building safety: Principal Designer for the design stage, Principal Contractor for the construction stage, and building safety manager for the occupation stage. These roles should take a ‘whole-building’ approach to safety and will require the knowledge, skills and experience to be able to challenge, interrogate and act on any aspect of the design, construction and operation that is inconsistent with the maintenance of the design intent or management of change. These special competencies are not always apparent in the built environment industry but are prevalent in many others, such as the nuclear and oil and gas industry, where there are learnings that should be transferred. Ensuring that these key roles have the additional competencies required to fulfil their responsibilities will require the development of new accredited training and qualification processes that are in addition to any discipline related competence requirements. These roles should be recognised in regulation and the names of the individuals qualified to undertake these roles should be recorded in a national register.</p>
6.00	Proposed approach and recommendations
6.01	<p>WGO’s aim is to deliver a proposal for a robust, coherent and comprehensive system of overseeing competence that gives assurance to residents, dutyholders, and regulators that those involved in the design, construction, inspection, maintenance and management of HRRBs are competent. To give this assurance, the overarching competence system should provide for:</p> <ul style="list-style-type: none"> • Setting of the benchmark competence framework standard, assessment process, revalidation and CPD requirements, allowing for periodic review and update, as part of a suite of competence standards developed and maintained through formal governance, stakeholder engagement and public consultation, • Raising of general competence levels for individual disciplines against the benchmark standard and improving competence of individuals across disciplines to work on buildings in scope through peer-review and independent assessment, • Continuous learning (particularly related to quality of work and risk), to be expanded over time from competence of those that work on buildings in scope to wider market-led competence needs, including issuing guidance, • Third party accreditation or licensing against the benchmark standards of bodies offering training, qualification and registration schemes for individuals working on buildings in scope, • Clear accountability of dutyholders for building safety at all times, • A structure of enhanced competence, qualification and registration of the key roles of Principal Designer (PD), Principal Contractor (PC) and building safety manager (BSM), with delegated responsibility for building safety, and a register of individuals qualified to undertake these key roles, • Signposting for residents, duty-holders and regulators to Government and industry registers of competent people,

	<ul style="list-style-type: none"> • Strategic oversight of the system, provision of guidance and support, feedback to industry, assessment and comparison of competence schemes, • Provision for residents and the public to escalate concerns and for appropriate action to be taken in response.
6.02	<p>Summary of the system</p> <p>The proposed overarching system takes a dual approach to enhancing the competence of those working on HRRBs that will provide assurance to residents, duty-holders and regulators that those involved in the design, construction, inspection, maintenance and management of HRRBs understand the risks and responsibilities of their work and act accordingly.</p> <p>The dual system comprises a bottom up, 'raising the bar' process for the general workforce and a top down 'sharp focus' on the three key roles of Principal Designer, Principal Contractor and building safety manager (PD/PC/BSM).</p> <p>Sharp focus on key dutyholder roles</p> <p>The accountability of the dutyholder (the Client or accountable person) for building safety at each stage of the building work and occupation will be set out in legislation. WG0 proposes that the Client (during building work) and the accountable person (during occupation) be required to appoint a suitably experienced company (exceptionally an individual) to one of the three key roles of PD/PC/BSM, to oversee building safety during the design, construction and operation phases of the building, as appropriate. The appointment of a company to any dutyholder role should be subject to the nomination of a suitably qualified and registered individual employee who will take responsibility for that function through the duration of the assignment.</p> <p>WG0 recognises that the roles of PD and PC are defined within the Construction Design and Management Regulations (CDM).</p> <p>New legislation and associated guidance for buildings in scope should redefine the overarching responsibilities that both roles carry for building and life safety. The PD role on an HRRB should be a single suitably qualified 'guiding hand' empowered through regulatory guidance to ensure the design intent in relation to building safety is understood, maintained and delivered to the point of handover. The PD HRRB should be part of the role of the lead designer, who will often be an architect but should always be the designer with the most appropriate professional background for the project. Where the focus of the project is on construction works, the PC role should be fulfilled by the lead contractor.</p> <p>The new role of BSM should similarly be fulfilled by a single individual, who is suitably qualified and has appropriate authority and resource to ensure the design intent is maintained through operation of the building asset.</p> <p>This approach will ensure that at each stage of the building work and occupation a suitably qualified individual is available and empowered, through the regulatory framework and associated guidance, to fulfil the dutyholder role under the legislation.</p>

Focusing on a single role with primary responsibility at any time for building safety avoids the risk of dilution or dispersion of responsibility across multiple individuals and organisations.

For higher risk buildings it is recognised that there are special competencies required at different stages of the building lifecycle that will be demanded of the dutyholder roles of PD/PC/BSM, who are expected to have an integrated view of the design, construction works and operation of the building. They must have the competence and skills to be able to challenge, interrogate and act on any aspect of the design, construction or operation that is inconsistent with the maintenance of the design intent or the management of change.

The special competencies required from these roles to oversee building safety will be developed and maintained (and updated as appropriate over time) in one or more national standards (British Standards) or Publicly Available Specifications (PAS). Individuals aspiring to undertake these roles will require to be qualified by accredited industry bodies and market providers and requalified as set out in the standards.

WG0 proposes that Government through its nominated Oversight Body maintains a national register of individuals qualified to undertake these key roles.

‘Raising the bar’

In parallel, there is a need to raise the bar on competence for everyone working on buildings in scope who may have an impact on building safety. The relevant professional and trade bodies should work together to agree an overarching competence framework standard for work on HRRBs covering core knowledge, skills, behaviours and organisational culture, which should be developed and maintained (and updated over time as agreed) as a national standard.

Upgrading competence across hundreds of disciplines is a substantial task and will take time. The working groups of the CSG have made progress in many areas to define the competencies expected of different functions and roles (such as the new BSM). In the years to come, continuing pressure will be needed on all qualifying bodies to implement the enhanced competence standards for work on HRRBs. Gaps will need to be addressed and third-party accreditation or licensing (checking the checker) extended to all qualifying bodies seeking to demonstrate compliance with the competence framework standard.

Individual qualifying bodies will be expected to maintain a register of their members that have met the workforce competence standards for HRRBs.

Assurance that all organisations offering qualifications and certification against the new suite of standards are themselves suitably competent will be provided through accreditation or licensing by UKAS (as the national accreditation body) or the Engineering Council (EngC) in the first instance. The system should also enable other organisations to act as accreditation bodies in addition to UKAS and the EngC if they can demonstrate equivalent standards.

WG0 proposes that a strategic, industry-led “Building Safety Competence Committee” could be hosted or appointed by MHLCG/Government, whose purpose is to keep the pressure on the system, signposting registers (both the qualifying bodies and the national register), publishing guidance and white papers, challenging industry and reviewing equivalencies (e.g. the accreditation

	<p>or licensing of the different assessing bodies) and providing a space for industry to continue to work collaboratively to drive competence more widely.</p> <p>An essential element of any competence system is that there are channels through which concerns may be raised and action taken. The sharp focus on three key roles will provide a clear and direct route for immediate concerns to be raised by the public or workforce. Alternatively, the system should permit the escalation of concerns directly to the regulatory body in Government. Thirdly, existing mechanisms such as the Social Housing Ombudsman could provide another channel for addressing residents' concerns.</p>
6.03	Recommendations
6.04	<p>Standards – Setting the benchmark competence standard, assessment process, revalidation and CPD requirements</p> <p>The relevant professional and trade bodies should work together to define and publish a benchmark overarching competence framework covering the necessary knowledge, skills and behaviours expected of all disciplines to work on buildings in scope, to define robust, rigorous and repeatable assessment processes and the requirements for evaluation/re-evaluation of qualifications or certifications of professional and trade body members working on HRRBs. These frameworks should be used as base documents for formal national standards maintained independently in perpetuity by BSI in its role as the national standards body working with representatives of all affected stakeholders.</p> <p>Through this route, relevant qualifying bodies will develop the core competences required for their discipline to work on buildings in scope within a consistent and coherent framework. The competencies required for work on HRRBs should relate particularly to the importance of maintaining a high quality of work and risk awareness. Individual qualifying bodies will be expected to maintain a register of their members that have met the competence standards for working on HRRBs.</p> <p>Recommendation One: Industry should lead the creation of an HRRB benchmark competence framework as part of a suite of national standards under the governance of the national standards body against which professional and trade bodies will develop their individual sector-specific or discipline competence standards to be used as a basis for their qualification processes.</p>
6.05	<p>Accreditation – Checking that qualifying bodies are compliant with the national standards for competence of workers on buildings in scope</p> <p>To create a consistent and coherent competence landscape for the certification and qualification of individual workers across all disciplines, organisations (industry bodies, professional institutions) claiming compliance with the HRRB competence framework national standards should be accredited or licensed by a rigorous, publicly recognised and accepted means, for those aspects of the individual disciplines' competence framework that relate to working on buildings in scope.</p> <p>Recommendation Two: Professional and trade bodies that certify or qualify members against the HRRB competence framework national standards (Rec 1) are expected to maintain a register of those individuals certified under their scheme and to be accredited/licensed by a suitable publicly recognised body</p>

	such as UKAS, the Engineering Council or other body, subject to equivalent standards of accreditation or licensing being agreed by the Building Safety Competence Committee (Rec 3).
6.06	<p>Industry-led “Building Safety Competence Committee – maintaining pressure on industry to drive competence improvement, advising Government and signposting guidance and legislation for industry and the public</p> <p>There is a need for an authoritative, strategic committee to maintain pressure on industry, drive gap-filling in the competence landscape, provide signposting to the Regulator, dutyholders and members of the public on competence requirements to work on buildings in scope and registers of qualified individuals, provide guidance for industry on matters such as legislation and a structure for industry to work collaboratively to drive competence more widely. The entity should include representatives from the industry, regulator and owner communities, appointed or designated by the relevant Government Oversight Body.</p> <p>The committee should peer-review and benchmark individual disciplines operating accredited or licensed HRRB schemes to compare the effectiveness of their system for assuring and recording competence and publish guidance on the merits of different schemes. It should further benchmark the different approaches offered by UKAS, EngC or other bodies accrediting or licensing individual disciplines to ensure equivalence of outcome. It should also provide guidance to industry on legislation and risks associated with work on buildings in scope and advise and promote the integration of learning into continuous improvement cycles and through competence training.</p> <p>Given the reach and overarching role of the Committee, WG0 proposes that the Regulator, in exercising its functions, should have regard to advice from the Committee on the selection of competent people so far as is reasonably practicable.</p> <p>For disciplines with no established professional or trade bodies, or system for assuring competence, the committee should promote and oversee representative working groups to develop appropriate assessment and accreditation processes that enable compliance with the benchmark overarching competence framework.</p> <p>The committee would publish an annual work plan and make a report annually on progress to the Government Oversight Body.</p> <p>Recommendation Three: A strategic, industry-led “Building Safety Competence Committee” should be created comprising representatives of relevant industry bodies, independent experts, building owners and Government. The committee should be appointed or designated by the relevant Government Oversight Body to raise competence by working with and challenging professional and trade bodies to drive gap-filling, promote the equivalence of accreditation or licensing systems, issue guidance to dutyholders and the Regulator on selecting competent people, provide a space for industry to continue to work collaboratively to drive competence more widely and provide or signpost</p>

	<p>guidance to industry and the public on relevant legislation, registers and standards relevant to buildings in scope.</p>
6.07	<p>Enhanced competence for key roles in the design, construction and management of buildings in scope</p> <p>WG0 is aware that Government is working on a new regulatory framework that will provide stronger regulatory oversight, clear roles and responsibilities for dutyholders. Dutyholders will be accountable for building safety at all times though they may delegate authority to carry out specific activities to suitably qualified individuals in defined roles. We understand that the framework will require dutyholders to ensure that buildings are procured, designed, constructed and maintained in a way that safety is prioritised and that people employed on HRRBs are suitably qualified and competent.</p> <p>Consistent with this approach, it is a core principle that the single line of responsibility for building safety should be extended through regulation to the three key dutyholder roles of Principal Designer, Principal Contractor and building safety manager (PD/PC/BSM), which the Client is required to appoint depending on the nature of the work in hand. In order to discharge their responsibilities, these roles will need to be satisfied as to the competence of the workforce.</p> <p>WG0 understands that Government will consult on the definitions of these key roles and their statutory duties and responsibilities under Government’s proposals for the new regulatory framework.</p> <p>WG0 recognises that the focus on one professional role having primary responsibility (through the dutyholder) for building safety at any time means in practical terms that the competence of individuals appointed to the PD/PC/BSM roles must be assured independently of any discipline related qualification process for working on buildings in scope.</p> <p>Further detailed work is to be undertaken on enhanced competences expected of individuals performing the key roles. As these roles will require an overarching understanding of all aspects of building safety and the impact of construction works or in-use activities on the design intent throughout the life-cycle, individuals will need to demonstrate that they have the skills to interrogate design and construction activity, challenge the quality of work and bad practices, and the ability to identify major hazards and minimise the risk to safety during operation.</p> <p>The special competences required of the PD/PC/BSM roles should be developed and maintained as part of the suite of national standards and overarching competence framework discussed above (Rec 1) to ensure a common governance structure and full stakeholder engagement in the process.</p> <p>Where an organisation is appointed to fulfil the PD/PC/BSM roles on a specific building, the company will be obliged to nominate a suitably qualified individual, listed on the national register (Rec 5).</p> <p>Recommendation Four: The three key roles that have primary responsibility for building safety at each stage of a building’s life-cycle (Principal Designer, Principal Contractor and building safety manager), require competences in addition to any discipline related competences (Rec 1). These additional</p>

	<p>competences relate to their overarching role to ensure that the design intent of the building is maintained and that workers employed and used in design, construction, refurbishment, maintenance and operation are suitably competent. The competences of these key roles should be developed and maintained as part of the suite of national standards that comprise the competence framework (Rec 1). Market providers that offer to assess individuals against the enhanced competence requirements should be accredited or licensed by UKAS or other suitable body.</p>
6.08	<p>Hold and maintain a register of competent individuals in key roles</p> <p>The focus on the accountability of the dutyholder and responsibilities of the three key roles (PD/PC/BSM) provides a sharp focus on building safety. Individuals appointed to the key roles are deemed competent to discharge their role-related responsibilities, will need to undertake role-specific training and assessment leading to qualification (and regular re-qualification) in addition to maintaining their discipline related competence for working on HRRBs.</p> <p>The names of qualified individuals with the required special competencies to fulfil the key roles should be maintained on a national register, together with the names of their employer.</p> <p>Recommendation Five: The Government Oversight Body should hold and maintain a register of those qualified to perform the key roles (Rec 4), with the advice of the strategic Building Safety Competence Committee (Rec 3) and provide sign-posting to the registers held by the professional and trade bodies (Rec 2).</p>
6.09	<p>Address claims of malpractice, call-in specific projects in the public interest, review reports and take action as necessary in the interests of public safety</p> <p>WG0 understands that there will be a Government Oversight Body for buildings in scope that will be empowered to take appropriate action in the event of whistleblowing, escalation or other public concern being raised that cannot be addressed through the key roles and dutyholder structure or existing local government or other channels (such as the HSE, or Social Housing Ombudsman). We note that the work to define this function is being undertaken by MHCLG.</p>
7.00	Programme for delivery and next steps – see also Annex C
7.01	<p>WG0 understands that Government will be consulting on the implementation of Hackitt report’s recommendations in spring 2019 in preparation for legislation to be brought forward in late 2019/early 2020.</p> <p>Government’s legislative timeframe means that it will take time before the statutory arrangements underpinning these proposals can be in place to establish the regulatory framework and relevant bodies, including WG0’s proposed Building Safety Competence Committee.</p>
7.02	<p>In the interim, industry should continue to work collaboratively to raise competence standards across industry as soon as possible. Taking an approach which maximises speed and pipeline capability is therefore key.</p>

	<p>The Competence Steering Group (CSG) is planning to consult on all proposals in its final report to seek views from wider industry and interested parties.</p> <p>Subject to wider agreement on these proposals, an industry-led forum could be formed to continue industry's work to drive competence, including developing and agreeing the overarching benchmark competence framework as a base document for a suite of new national standards or PAS, working with relevant disciplines to peer-review the provisional competency framework and to drive gap-filling in individual sectors. WG0 recognises that it could take around 6-8 months to agree the base document for the benchmark competence standard.</p>
7.03	<p>The additional competence requirements for the key roles should form part of the overarching framework and will need to be developed by a dedicated working group of the forum, working with experts from other sectors experienced in the management of design and construction and the operation of building assets in high risk environments. In the context of the BSM role, the group would build on the work of the CSG Working Group building safety managers to confirm that the benchmark competences of that role were consistent and could be fed into the development of the national standards together with the base document for the roles of PD and PC (7.02).</p>
7.04	<p>In parallel, relevant disciplines should continue to work collaboratively on provisional sector-specific competency frameworks which can be delivered through voluntary agreement by relevant professional and trade bodies, creating a temporary and accepted standard of competence assessment while the benchmark competence standard is agreed and the suite of new national standards is published. For example, WG0 understands that CSG Working Groups including the Engineers, the Architects/Building Designers, Building Standard Inspectors and Site Supervisors Working Groups are planning to pilot this approach. This could continue to operate until a fully established and resourced system is in place and will provide valuable learnings for the development of the national standards.</p>
7.05	<p>WG0 recommends that Government continues to work with industry to take forward these proposals and provide support where necessary, as part of its plan for implementing the recommendations from the Hackitt Report.</p>
8.00	Barriers to delivery and issues for further consideration
8.01	<p>To enable the Building Safety Competence Committee to perform its role effectively in driving competence it will require some Government backing or statute underpinning the role of the Committee. This means the Committee could not be formally appointed until legislation comes into effect.</p>
8.02	<p>It will take time to develop and agree the national standards for competence of workers and key roles on HRRBs, and for relevant organisations to review their sector-specific competence frameworks, develop and deliver the additional accredited training and qualifications, upskilling and certifying competent individuals. In many cases, the speed of implementation will be affected by capacity within the industry organisations to respond. Annex C presents further consideration of the timeline for implementation.</p>
8.03	<p>The development of a national register, new national standards, guidance, signposting and the establishment of strategic committees, industry forums and</p>

	<p>working groups will incur additional costs to industry and government that will need to be met over and above the status quo.</p> <p>In the longer term, there will be significant cost benefits from having a competent workforce and more robust safety management processes which will increase efficiency and result in safer and higher quality buildings, far outweighing the initial costs.</p>
8.04	<p>Whilst the national accreditation body, UKAS, and the Engineering Council are already active in the accreditation and licensing of industry bodies, there is a challenge of scale and reach to ensure that all disciplines have appropriate accredited schemes for their members to be certified to work on HRRBs. Annex D describes the challenge of accreditation in more detail. WG0 notes that other accreditation bodies may need to step up alongside UKAS and EngC to provide the oversight required and that the Building Safety Competence Committee will need to develop appropriate methods for assuring the equivalence of their activities.</p>
8.05	<p>The additional competencies required of PD/PC/BSM will require a number of organisations with the appropriate experience to step forward and offer accredited training and qualification processes against the new national standards. As these roles are still to be defined in regulation and do not exist in their proposed form for HRRBs at present, these qualification processes will be new and may be offered by only a few organisations in the first instance.</p>
9.00	Acknowledgements
9.01	<p>WG0 warmly thanks the many individuals who gave of their time and expertise to contribute at short notice to the discussions that informed this report. A full list of those consulted in one form or another or who participated in the three meetings of the group to date is given at Annex A.</p> <p>WG0 is particularly grateful to Peter Caplehorn (CEO, CPA), who briefed the CSG and to MHCLG for their administrative support during the process.</p>
10.00	List of Annexes
A	Working Group membership and contributors
B	Overarching Competence System map
C	Proposed timeline for developing and implementing proposals
D	UKAS and Engineering Council's paper on accreditation

Industry Response Group Competences for Building a Safer Future

Working Group 0 – Overarching System for Overseeing Competence

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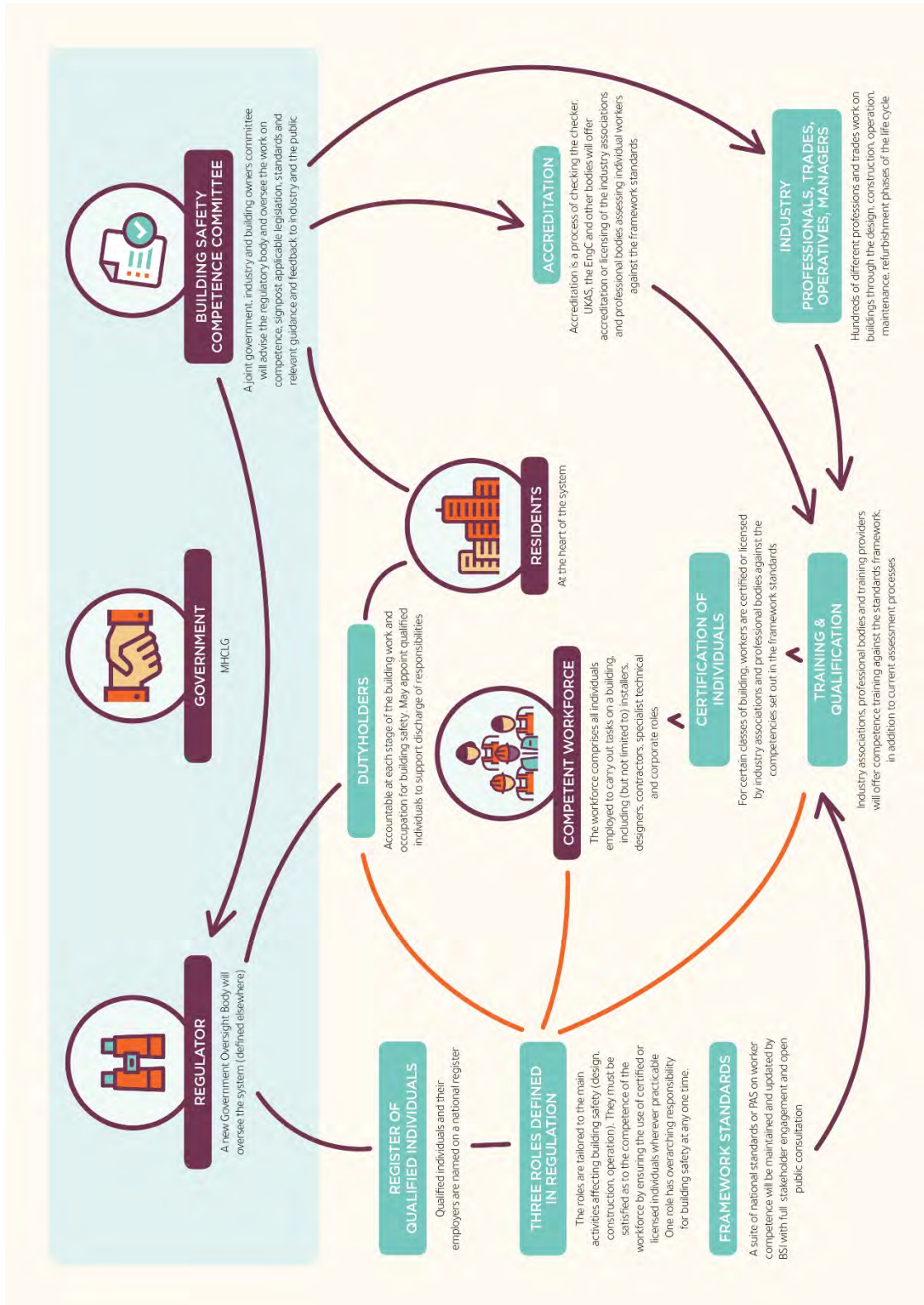
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In addition to the individuals noted above, comments and feedback were received from members of the Joint Regulators Group (JRG), the Early Adopters Group (EAG), the Competence Steering Group (CSG) and the Industry Safety Steering Group (ISSG).

Industry Response Group Competences for Building a Safer Future

Working Group 0 – Overarching System for Overseeing Competence

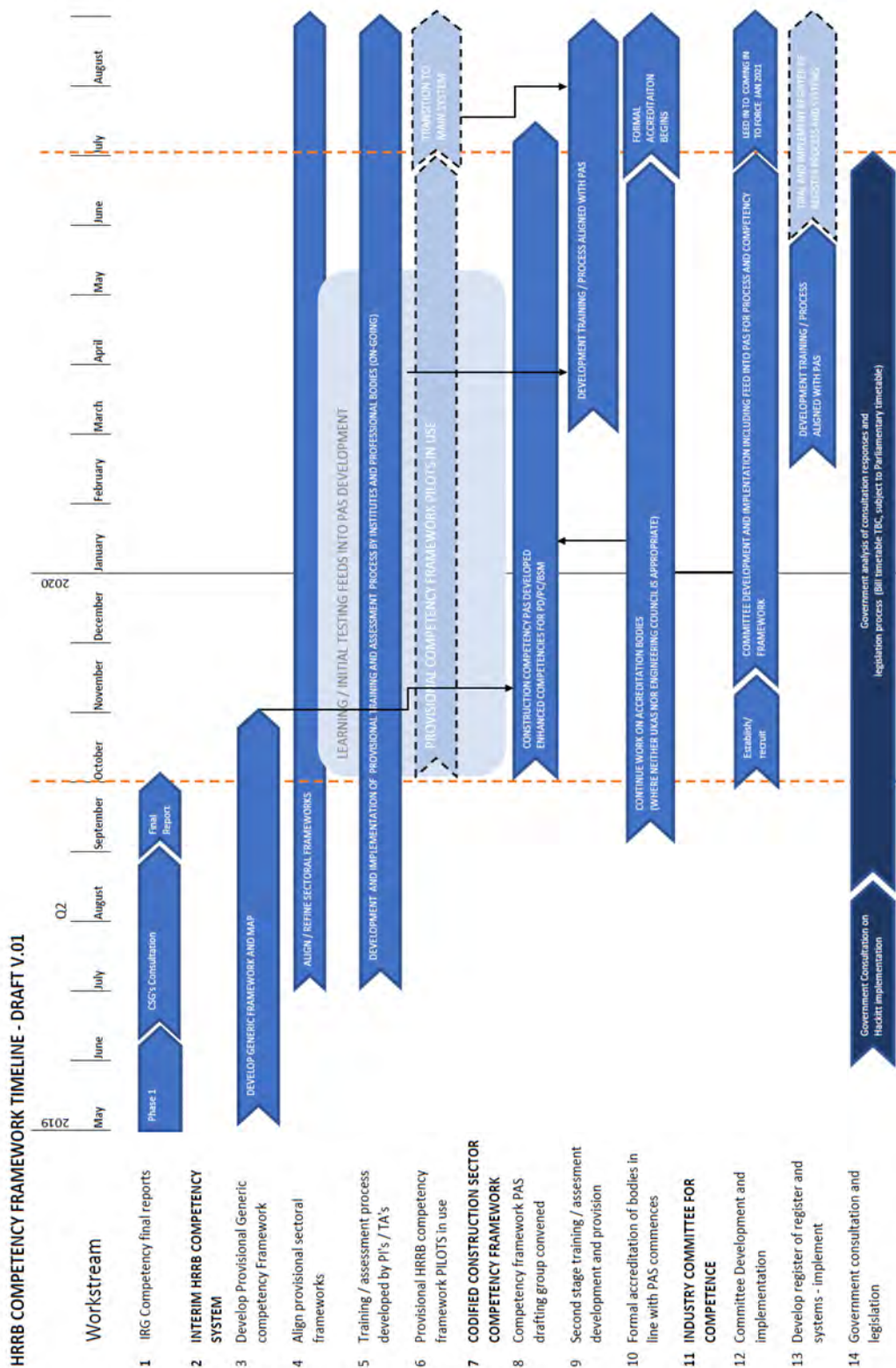
Final Report Annex B Overarching Competence System



Industry Response Group Competences for Building a Safer Future

Working Group 0 – Overarching System for Overseeing Competence

Final Report Annex C Proposed timeline for developing and implementing proposals



Industry Response Group Competences for Building a Safer Future

Working Group 0 – Overarching System for Overseeing Competence

Final Report Annex D Oversight of Assessment of Competence

1.00	Title membership and lead contributors
1.01	Oversight of Assessment of Competence
1.02	Lead contributors
	Malcolm Hynd – United Kingdom Accreditation Service (UKAS) Katy Turff – Engineering Council (EngC)
2.00	Executive Summary
2.01	Chapter 5 of the <i>Building a Safer Future</i> report calls for improvements in the way the competence of those professions and trades involved with high risk residential buildings (HRRBs) is assessed and verified. At the first meeting of the working group set up to consider the role and remit of the overarching competence body (WG0), UKAS and EngC were asked to consider how they and any other relevant organisations could work together to provide an assurance framework within the overarching competency system proposed in the report.
2.02	<p>Representatives of UKAS and EngC have worked together to compare their respective methods for overseeing the assessment of competence, to identify the assessment and oversight arrangements that already exist for those professions and trades involved with HRRBs and to identify where there are gaps that need to be filled. They conclude that:</p> <ul style="list-style-type: none"> • To provide the necessary confidence in the market place, all individuals working on HRRBs should meet the competence requirements developed by the WGs set up to support the Industry Response Group. • Compliance needs to be demonstrated by independent, third party assessment and periodic re-assessment of the individuals. • The organisations carrying out the assessment should themselves be subject to independent oversight of their competence and impartiality to do so. • Further work will be needed to ensure that robust and rigorous assessment and oversight arrangements are in place for all professions and trades involved with HRRBs. • This work could be led by UKAS and EngC, together with any other oversight bodies identified, but should be overseen by the overarching body or system to be established as part of the MHCLG regulatory framework for HRRBs.

3.00	Industry context
3.01	Current practice of assessment and oversight varies considerably across the many professions and trades involved with HRRBs falling broadly into two categories: professional registers and personnel or service certification schemes.
3.02	Professional registers are characterised by membership of a professional body, assessment by professional peers within that body against a generic professional competence standard set by the profession itself, agreement to be bound by a code of conduct and subject to the disciplinary procedures and sanctions of the body and a requirement to undertake continuing professional development. Standards are set by the body, or by the regulator of the profession.
3.03	<p>Personnel Certification Schemes are characterised by assessment against a specific occupational competence standard which may or may not have a code of conduct or behavioural component associated with it, is usually subject to periodic re-assessment, and may provide a form of licence to practise. Assessment is conducted by an independent certification body working either to its own standards, those of an independent scheme owner or to national or international standards. The certification body may hold a register or issue some other form of identification. Certification under one of these schemes is not generally a prerequisite. Alternatively, some trades demonstrate competence through the certification of organisations for the quality of the services they provide. Again, the certification is carried out by independent certification bodies against agreed scheme criteria or standards, including clear competence requirements for the organisation's employees.</p> <p>Some trades currently fall within a certification scheme framework as do some professions (eg some installers, fire risk assessors and product manufacturers) but coverage is by no means comprehensive and the particular competences required for working on HRRBs are unlikely to be specifically covered by the scheme criteria. However, the certification approach has the flexibility to apply to any scheme for the certification of personnel or service.</p>
3.04	Different arrangements exist for the external accreditation or oversight of these mechanisms. For Certification Schemes there is a single mechanism for external accreditation of the organisations assessing the competence of individuals or organisations - accreditation by UKAS against internationally agreed standards. There is no external accreditation of the organisations setting the standards as conformity assessment bodies choose the standard(s) they wish to operate, including creating their own. However, the standards are assessed by UKAS for fitness for purpose and stakeholder support.

3.05	Professional registers have a variety of arrangements: at one end of the spectrum, the engineering profession has numerous professional bodies which work together under the umbrella of the Engineering Council. As the national regulator the Engineering Council sets the generic standards for professional engineering competence and commitment, and licenses and audits professional engineering institutions to tailor these and develop procedures to assess professional practitioners within their discipline for admission to the national register. In this respect it provides external assurance of both the organisations assessing competence and the standards they are using. However it is not subject to the same level of government oversight or international audit as UKAS.
3.06	Some professional engineering institutions have both Engineering Council licence and UKAS accreditation. Other professions may have their own system, use UKAS or have no external assurance mechanism.
4.00	Responding directly to questions arising from Dame Judith Hackitt's recommendations
4.01	<p>Of particular relevance to the assessment of competence, Dame Judith's report:</p> <ul style="list-style-type: none"> • calls for robust standards to be developed and operated in a clear framework that is coherent and consistent and provides assurance to the dutyholder (paragraph 5.18); • calls for greater consistency in the way competence is assessed and verified (5.16); • calls for competence to be re-assessed on a defined periodic basis (5.21); • recommends that, as a minimum, any body which 'accredits' competence should themselves be accredited by a rigorous, publicly recognised and accepted method of accreditation, for example by UKAS (5.22); • recommends the establishment of an overarching body to provide oversight of competence requirements and support the delivery of competent people working on HRRBs (Recommendation 5.2).
4.02	<p>The focus of this report, as requested by WG0, is on the provision of a level of external oversight of the organisations setting the standards for and assessing the competence of individuals working on buildings in scope ie bullet point 4 above. However, in addressing bullet point 4, consideration has also been given to bullets 1, 2 and 3. It is also important to set this activity in the wider context of the overarching competence body or system and, in particular, the proposals emerging in response to bullet point 5 above and how this might work in practice.</p> <p>Representatives of UKAS and EngC believe that the measures proposed in section 2.02, if implemented in full, would contribute significantly to the culture change indicated as necessary in <i>Building a Safer Future</i>. In particular, a comprehensive requirement for rigorous and robust</p>

	assessment, periodic re-assessment and oversight of all individuals involved with HRRBs would be a major step forward.
5.00	Detailed analysis of issues
5.01	<p>It is recognised that there is currently no consistent method for assessing the competence of those professions and trades involved with HRRBs. Whilst a number of UKAS accredited certification schemes cover the installation of fire safety equipment and the competence of fire risk assessors, the take up of these schemes is not comprehensive and they may not cover the specific competences required of those involved with HRRBs. Similarly, EngC licenses a number of professional engineering institutions (eg IMechE, IET, IFE) to register professionals working in the built environment sector but, again, coverage is not comprehensive across the sector and specific HRRB related competence is unlikely to be covered by the registration processes of the PIs concerned. Other PIs are also active in the sector (eg RIBA, RICS and CIPS) but are outside the scope EngC licensing.</p>
5.02	<p><i>Setting the standards of competence of individuals working on buildings in scope</i></p> <p>A second point of consideration is the role of the overarching body or system 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 established."</p> <p>As indicated above, neither the professional registration nor the personnel certification schemes satisfactorily addresses the question of assuring the performance of organisations setting the standards of competence of individuals working on buildings in scope. Professional registration systems are generic and do not necessarily include requirements specific to a context and personnel certification schemes are assured to a wide range of standards.</p> <p>Emerging thinking from Competence Working Groups 1-12 is that there is potential to develop a single 'mega-framework' of competences, with the different professions developing contextualised profiles and interpretations. This would allow the overarching body to compare widely differing professions within a single 'overlay', with a common language and an expectation that all professionals working in the buildings in scope will have as a minimum, an awareness across the full range, with progression to comprehensive knowledge, skills and behavioural attributes as applicable to the role they are fulfilling. The overarching body would have control of the mega-framework, which it would need to review periodically.</p> <p>For certification bodies, this may mean developing personnel certification schemes corresponding to one or more of the contextualised profiles. This raises a question of who should maintain the contextualised profiles</p>

	<p>currently being developed by some of the working groups. These schemes could be developed by BSI, as the national standards body, by specialised scheme owners (such as BAFE) or by the individual certification bodies themselves. UKAS would assess the schemes for fitness for purpose and stakeholder support. This assessment could be performed in consultation with the overarching organisation or by the overarching organisation itself.</p> <p>Where the contextualised profiles are being developed by professional bodies that have registers based on assessment against a generic standard of competence, this may mean the introduction of a specialist annex. As an example, the Engineering Council could develop and maintain a contextualised HRRB section to its register. Admission to this would require individuals to undergo an assessment against the engineering contextualised profile of the HRRB competence framework. Assessment could be simultaneous with assessment for registration as a CEng, IEng, EngTech or ICTTech, or an additional assessment for those already on the register. If held as a separate contextualised register, it would also be possible to admit people who chose not to join the main register, although they would still need to join an engineering institution and agree to abide by its code of conduct and be subject to its disciplinary procedures and sanctions. A feature of this model would be the requirement for periodic revalidation for the contextualised register, which may include prescribed CPD.</p>
5.03	<p><i>Assuring the performance of organisations setting the standards for and assessing the competence of individuals working on buildings in scope</i></p> <p>The third area of consideration is then the options for external assurance of the performance of the organisations setting the contextualised standards and assessing competence of individuals working on the buildings in scope.</p> <p>Two models are indicated in the examples above – UKAS and the Engineering Council. Other professions may have their own models which should also be taken into account.</p> <p><u>UKAS is the sole national accreditation body for the United Kingdom.</u></p> <p>UKAS is appointed by government, under EU Regulation 765/2008 and The Accreditation Regulations 2009, to accredit, against internationally agreed standards, organisations that provide assessment services including certification, testing and inspection. Accreditation by UKAS demonstrates the competence, impartiality and performance capability of these assessing organisations. In short, UKAS ‘checks the checkers’. UKAS does not accredit individuals, qualifications, training courses or training providers.</p> <p>UKAS is a non-profit distributing private company that operates under an MoU with Government which requires it to work in the public interest. It is agreed Government policy to recommend the use of UKAS accredited conformity assessment services whenever this is an option.</p>

	<p><u>The Engineering Council is the UK regulatory body for the engineering profession.</u> It holds the national registers of Engineering Technicians (EngTech), Incorporated Engineers (IEng), Chartered Engineers (CEng) and Information and Communications Technology Technicians (ICTTech). The Engineering Council sets and maintains the internationally recognised standards of academic achievement, professional competence and commitment, initial and continuing professional development that govern the award and retention of these titles. It licenses professional engineering institutions to admit individuals to its Registers and to accredit or approve programmes of education and professional development, and audits the performance of those bodies. It provides guidance to those bodies on codes of conduct and disciplinary procedures.</p> <p>The Engineering Council is a registered charity that operates under a Royal Charter which requires it to work in the public interest. Through its Charter it is authorised to represent the UK in relation to the international recognition of Registrants and of educational qualifications in engineering and related subjects and disciplines.</p>
5.04	<p>UKAS and EngC have undertaken a comparison of their governance arrangements and working practices and have identified the following key similarities and differences:</p> <p><i>Similarities:</i> Application, document review, onsite review, independent decision committee; the use of technical experts; one level of intermediary between accreditation/licencing and individual professional (checking the checker)</p> <p><i>Differences:</i> Extent of government oversight; methods of standards setting; operating to international standards (UKAS); peer review vs external accreditation process; who holds the register; scope, scale and flexibility (EngC remit is engineering, UKAS could be anything and consequently much larger); periodic reassessment of individuals (a requirement for personnel certification but not necessarily for professional institution registration); cost (UKAS required to be self-financing).</p> <p>It is clear from this work that the systems operated by the two organisations have been developed for rather different purposes. Whilst it is not possible to conclude that the two systems are equivalent they are clearly fit for the purpose for which they were originally intended and could, with some adjustments, provide the basis for the oversight of assessment of competence called for in <i>Building a Safer Future</i>.</p>
5.05	<p><i>Terminology</i></p> <p>Given the differences in the way that UKAS and EngC operate it is important that it is clear to end users which system is being used for each different discipline. This can best be achieved by the consistent use of terminology as the programme of work develops, with ‘certification’ and ‘accreditation’ being reserved for the UKAS system and ‘registration’ and ‘licencing’ for EngC.</p>

6.00	Raising the bar: proposed approach
6.01	The system proposed will provide significant improvements in the assessment of competence by implementing clear, robust and more consistent oversight arrangements across the sector. It will require periodic re-assessment of all individuals and organisations involved with HRRBs. See also section 4.02 above.
7.00	Programme for delivery & primary authorities
7.01	UKAS and EngC will continue to work together, and with the overarching organisation when established, to ensure that satisfactory assessment and oversight arrangements are in place across the sector. Once proposals have been received from all the Working Groups, a comparison will be made to ensure that a consistent approach is being taken and that satisfactory arrangements are being made for the assessment (including periodic re-assessment) of the professions and trades involved and for the oversight of the assessment process. Assistance will be provided to those organisations responsible for setting up the arrangements for assessment and oversight. Consideration will be given to those areas in which satisfactory arrangements have not been identified.
7.02	Where UKAS accredited certification is identified as the preferred method of assessment, UKAS will work with the organisations developing the competences to ensure that they are suitably clear and robust to provide the desired levels of confidence. UKAS will also liaise with prospective certification bodies to ensure that there is sufficient provision of certification services available to those requiring it. UKAS will work with the applicant certification bodies to ensure they are working to the correct standards and have the necessary competence, impartiality and processes to carry out the certification of the individuals or organisations in scope.
7.03	Where EngC licenced registration is identified as the preferred method of assessment, EngC will work with bodies within its scope to implement the contextualised competence standard and registration, introduce periodic reassessment and support appropriate initial and continuing professional development. EngC will also introduce a contextualised section or a discrete register of engineers and technicians who have been assessed to the contextualised standard.
7.04	If other routes to assessment and oversight are identified by the working groups, UKAS and EngC will work with the suggested bodies to ensure that the levels of assessment and oversight are consistent with those provided by UKAS and EngC to ensure that satisfactory levels of confidence are provided.

7.05	UKAS and EngC will work with MHCLG within the overarching system established to ensure that all assessments of competence provide the levels of assurance required.
8.00	Barriers to delivery
8.01	<p>Potential barriers to delivery are:</p> <ul style="list-style-type: none"> • An unwillingness of some professions and trades to be subject to independent assessment and particularly to periodic reassessment • An unwillingness of some assessing organisations to be subject to UKAS accreditation, EngC licencing or some other satisfactory form of oversight • An unwillingness by Government to mandate the proposed system of assessment and thereby allow un-registered individuals and organisations to continue to operate
9.00	Acknowledgements
9.01	The co-operation of UKAS and EngC, the Competence Steering Group members and the members of the various working groups is acknowledged.

Annex F: Current legislative framework

1. There are already a number of regimes that consider buildings and fire safety risk both during the design and construction stage and the occupation stage:

Design and construction (including refurbishment):

2. **The Town and Country Planning Act 1990** makes provision on the development of land in England and Wales. In most instances, a formal request must be made to a local authority for permission to build something new or to add something to an existing building. This request must include the design. The Town and County Planning Act is enforced by Local Planning Authorities.
3. **The Building Act 1984 and its regulations** makes provision on the construction process, and the design and specifications for buildings and their component parts, and related matters, in England. Building regulations approval is required for most building work. The Building Act and Regulations are enforced by Building Control in local authorities.
4. The **Building Regulations 2010** establish general functional requirements for buildings when constructed, and are supported by Approved Documents, approved and issued under section 6 of the Building Act 1984, which set out detailed practical guidance on compliance. The building regulations also set out procedures for the control of building work by local authorities.
5. The **Building (Approved Inspectors etc) Regulations 2010** set out the detailed provisions for the supervision of building work by approved inspectors, including the method of grant and withdrawal of approved inspector status and the way the approved inspector system operates.
6. The **Building (Local Authority Charges) Regulations 2010** relate to the charging scheme for carrying out building control functions.

Occupation

7. The **Regulatory Reform (Fire Safety) Order 2005** (Fire Safety Order) makes provision on fire safety for buildings in use and places the responsibility on individuals within an organisation to carry out risk assessments to identify, manage and reduce the risk of fire. The Fire Safety Order applies to work places and common parts of shared residential properties. It does not cover individual dwellings. The Fire Safety Order is enforced by fire and rescue services.
8. The **Housing Act 2004** make provision about housing conditions in all dwellings in use and regulates houses in multiple occupation and certain other

residential accommodation. It is enforced by Housing Officers and Environmental Health Officers in local authorities.

9. The **Housing Health and Safety Rating System (England) Regulations 2005 (HHSRS)**, made under the 2004 Act, make provisions to assess housing conditions in all dwellings in use in their areas and require works to be done to remediate hazards (including fire) identified in housing. These regulations are enforced by Housing Officers Environmental Health Officers in local authorities.

Construction products

10. **Construction Products Regulation (EU) No 305/2011 (CPR)** lays down harmonised rules for the marketing of construction products in the EU. The regulation provides a common technical language to assess the performance of construction products. It ensures that reliable information is available to professionals, public authorities, and consumers, so they can compare the performance of products from different manufacturers in different countries. The CPR covers both products subject to a harmonised standard under EU law and those subject to a European Technical Assessment (ETA); an alternative for construction products not covered by a harmonised standard. It is a document providing information on their performance assessment and offers a way for manufacturers to draw up the Declaration of Performance and affix the CE marking. It contributes to the free movement of construction products and the creation of a strong Single Market.

Annex G: Questions

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

Q. 1.1	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
Q. 1.2	How can we provide clarity in the regulatory framework to ensure fire safety risks are managed holistically in multi-occupied residential buildings?
Q. 1.3	If both regimes are to continue to apply, how can they be improved to complement each other?
Q. 1.4.	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.
Q.1.5.	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?
Q. 1.6.	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?
Q. 1.7.	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.
Q. 1.8.	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?

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

Q. 2.1.	Do you agree that the duties set out above are the right ones?
Q. 2.2.	Are there any additional duties which we should place on dutyholders? Please list.
Q. 2.3.	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.
Q. 2.4.	Do you agree with the approach outlined above, 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.
Q. 2.5.	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?
Q. 2.6.	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.
Q. 2.7.	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.
Q. 2.8.	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.
Q. 2.9.	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.
Q. 2.10.	Would early engagement on fire safety and structural issues with the building safety regulator prior to gateway two be useful? Please support your view
Q. 2.11.	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?
Q. 2.12.	Do you agree that the information at paragraph 89 is the right information to require as part of gateway two? Please support your view.
Q. 2.13.	Are these the appropriate dutyholders to provide each form of information listed at paragraph 89?
Q. 2.14.	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?
Q. 2.15.	Do you agree that there should be a 'hard stop' where construction cannot begin without permission to proceed? Please support your view
Q. 2.16.	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.
Q. 2.17.	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.

Q. 2.18.	Should the building safety regulator be able to prohibit building work from progressing unless non-compliant work is first remedied? Please support your view
Q. 2.19.	Should the building safety regulator be required to respond to gateway two submissions within a particular timescale? If so, what is an appropriate timescale?
Q. 2.20.	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
Q. 2.21.	Do you agree that the Principal Contractor should be required to consult the Client and Principal Designer on changes to plans?
Q. 2.22.	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?
Q. 2.23.	<p>What definitions could we use for major or minor changes?</p> <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; <p>Other – please specify</p>
Q. 2.24.	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?
Q. 2.25.	What are the circumstances where the Government might need to prescribe the building safety regulator's ability to extend these timescales?
Q. 2.26.	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.
Q. 2.27.	Should the building safety regulator be required to respond to gateway three submissions within a particular timescale? If so, what is an appropriate timescale?
Q. 2.28.	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
Q. 2.29.	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.

Q. 2.30.	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.
Q. 2.31.	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
Q. 2.32.	Do you agree with the proposal for refurbished buildings? Please support your view
Q. 2.33.	Do you agree with the approach to transitional arrangements for gateways? If not, please support your view or suggest a better approach?
Q. 3.1.	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.
Q. 3.2.	Do you agree with our proposed content for safety cases? If not, what other information should be included in the safety case?
Q. 3.3.	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
Q. 3.4.	Which options should we explore, and why, to mitigate the costs to residents of crucial safety works?
Q. 3.5.	Do you agree with the proposed approach in identifying the accountable person? Please support your view.
Q. 3.6.	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.
Q. 3.7.	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.
Q. 3.8.	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.
Q. 3.9.	Do you agree with the proposed duties and functions of the building safety manager? Please support your view.
Q. 3.10.	Do you agree with the suitability requirements of the building safety manager? Please support your view
Q. 3.11.	Is the proposed relationship between the accountable person and the building safety manager sufficiently clear? Please support your view.
Q. 3.12.	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
Q. 3.13.	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.
Q. 3.14.	Under those circumstances, how long do you think a building safety manager should be appointed for?
Q. 3.15.	Under what circumstances should the appointment be ended?

Q. 3.16.	Under those circumstances, how do you think the costs of the building safety manager should be met? Please support your view.
Q. 3.17.	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
Q. 3.18.	Do you agree with the principles set out in paragraphs 180 and 181 for the process of applying for and obtaining registration?
Q. 3.19.	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
Q. 3.20.	Do you agree with the types of conditions that could be attached to the building safety certificate? Please support your view.
Q. 3.21.	Do you agree with the proposals outlined for the duration of building safety certificates? If not, please support your view.
Q. 3.22.	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?
Q. 4.1.	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.
Q. 4.2.	Are there any standards or protocols other than Building Information Modelling (BIM) that Government should consider for the golden thread? Please support your view
Q. 4.3.	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.
Q. 4.4.	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.
Q. 4.5.	Do you agree with the proposals relating to the availability and accessibility of the golden thread? If not, please support your view
Q. 4.6.	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
Q. 4.7.	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.
Q. 4.8.	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

Q. 4.9.	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.
Q. 4.10.	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.
Q. 4.11.	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?
Q. 4.12.	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?
Q. 4.13	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.
Q. 4.14.	Do you have any suggestions for additional categories? Please list and support your view.
Q. 4.15.	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.
Q. 4.16.	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.
Q. 4.17.	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.
Q. 4.18.	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
Q. 4.19.	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
Q. 4.20.	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.

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

Q. 5.1.	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
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Q. 5.2.	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.
Q. 5.3.	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? <ul style="list-style-type: none"> • Relative, • Carer, • Person with Lasting Power of Attorney, • Court-appointed Deputy, • Other (please specify).
Q. 5.4.	Do you agree with the proposed set of requirements for the management summary? Please support your view.
Q. 5.5.	Do you agree with the proposed set of requirements for the engagement plan? Please support your view.
Q. 5.6.	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.
Q. 5.7.	What specific requirements, if any, do you think would be appropriate? Please support your view
Q. 5.8.	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?
Q. 5.9.	Do you agree with the proposed requirements for the accountable person's internal process for raising safety concerns? Please support your view.
Q. 5.10.	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?
Q. 5.11.	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.

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

Q. 6.1.	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.
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Q. 6.2.	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.
Q. 6.3.	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.
Q. 7.1	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
Q. 7.2.	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.
Q. 7.3.	Do you agree with the proposed functions of the committee that are set out in paragraph 331? Please support your view.
Q. 7.4.	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.
Q. 8.1.	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.
Q. 8.2.	Do you agree that an 'inventory list' should begin with including those constructions products with standards advised in Approved Documents? Please support your view.
Q. 8.3.	Are there any other specific construction products that should be included in the 'inventory list'? Please list.
Q. 8.4.	Do you agree with the proposed approach to requirements for construction products caught within the new regulatory regime? Please support your view.
Q. 8.5.	Are there further requirements you think should be included? If yes, please provide examples
Q. 8.6.	Do you agree with the proposed functions of a national regulator for construction products? Please support your view.
Q. 8.7.	Do you agree construction product regulators have a role in ensuring modern methods of construction meet required standards? Please support your view
Q. 8.8.	Do you agree that construction product regulators have a role in ensuring modern methods of construction are used safely? Please support your view.
Q. 8.9.	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.
Q. 8.10.	Are there other requirements for the umbrella minimum standard that should be considered? If yes, please support your view.

Q. 8.11.	Do you agree with the proposed requirements in paragraph 354 for the umbrella minimum standard? If not, what challenges are associated with them?
Q. 8.12.	Do you agree with the proposal for the recognition of third-party certification schemes in building regulations? Please support your view.
Q. 8.13.	Do you agree that third-party schemes should have minimum standards? Please support your view.
Q. 8.14.	Are there any benefits to third-party schemes having minimum standards? Please support your view
Q. 8.15.	Are there challenges to third-party schemes having minimum standards? Please support your view.

Chapter 6: Enforcement, compliance and sanctions

Q. 9.1.	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?
Q. 9.2.	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?
Q. 9.3.	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.
Q. 9.4.	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.
Q. 9.5.	Do you agree that formal enforcement powers to correct non-compliant work should start from the time the serious defect was discovered? Please support your view.
Q. 9.6.	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?

Annex H: Glossary

accountable person	The dutyholder during a building's occupation. Under our proposals they would be the person who has control of the building, is legally responsible for the maintenance and who is entitled to receive funds from the residents for this. They would be responsible for ensuring fire and structural safety risks in the building are reduced so far as is reasonably practicable.
Approved Document	Guidance approved under section 6 of the Building Act 1984 to provide practical guidance on ways to comply with the requirements in the building regulations.
Approved Document B	Guidance on ways to comply with the fire safety requirements in Part B of Schedule 1 to the Building Regulations 2010
Approved Inspector (AI)	Bodies approved under Part 2 section 49 of the Building Act 1984 to carry out building control functions as an alternative to Local Authority Building Control. Almost all are private sector bodies.
assessment in lieu of test	An assessment carried out in lieu of a physical test. The term is particularly associated with cladding systems and is also referred to as a desktop study.
building control	A statutory process of assessing plans for building work and building work on site to decide whether the plans and work comply with the requirements in the building regulations.
building control bodies	A local authority or an Approved Inspector who assesses conformity with the building regulations.
Building Regulations Advisory Committee (BRAC)	The Committee (appointed under the Building Act 1984 Part 1 Section 14) advises the Secretary of State in England on proposals or make or change building regulations and the system in which they operate. The Committee also provides expert advice to the Secretary of State on related matters such as the health and safety, welfare and convenience of people in and around buildings; energy conservation and the sustainability of buildings.
building safety	'Building safety' refers to fire safety and structural safety. This may also apply to other disciplines such

as electrical and gas safety, where these could impact the fire safety of the building.

building safety manager	Named by the accountable person, under our proposals the building safety manager supports the accountable person by carrying out the day to day functions of ensuring that the building is safely managed and promote the openness, trust and collaboration with residents fundamental to keeping buildings safe
building safety regulator	The proposed new regulator to provide oversight of the new building safety regulatory regime. This regulator will also oversee the wider building and regulatory system and watch over efforts to assure the competence of those working on buildings
Centre for Protection of National Infrastructure (CPNI)	UK Government authority which provides protective security advice to businesses and organisations across the national infrastructure.
common parts	Those parts of a domestic property (such as a block of flats) which is used in common by the occupants of more than one flat (such as the corridors and fire-escape routes).
compartmentation	Construction designed to prevent the spread of fire to or from another part of the same building or an adjoining building. For example, compartment walls and floors with a rated period of fire resistance are provided to separate individual flats.
Competence Steering Group (CSG)	An industry-led group established to develop proposals for oversight of competence and increased competence in key disciplines across design, construction, inspection, maintenance and management of buildings
completion stage	The point at the end of the construction process when building work is completed and needs to be assessed prior to occupation.
Confidential Reporting on Structural Safety (CROSS)	A confidential safety reporting scheme established to capture and share lessons learned which might not otherwise have had formal recognition.
Construction Control Plan	One of the core information products that we propose dutyholders must produce and maintain in the design and construction phase. Produced by the Principal Contractor, it describes how building safety and building regulations compliance will be maintained

during the construction phase and how change will be controlled and recorded.

Construction (Design and Management) Regulations 2015 (CDM)

Health and safety at work regulations introduced in 2015 the management of health, safety and welfare when carrying out construction projects. Included the concept of clients, designers, and contractors having specific duties to manage risks and to collaborate and coordinate their work.

desktop study

An assessment carried out in lieu of a physical test. The term is particularly associated with cladding systems and is also referred to as an 'assessment in lieu of test'

dutyholders

The key roles (whether fulfilled by individuals or organisations) that are assigned specific responsibilities at particular phases of the building life cycle.

Early Adopters Scheme

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

Expert Group

An Expert Group was commissioned to lead the government response to the recommendation in Dame Judith's interim report to consider how the suite of Approved Documents could be restructured to provide a more streamlined holistic view while retaining the right level of technical detail. The group was chaired by a member of BRAC and consisted of BRAC Members, digital content experts and guidance users from across the construction sector.

Fire and Emergency File

One of the core information products that we propose dutyholders must produce and maintain during the design and construction phase. This builds upon the Fire Statement produced at gateway one (where produced) and sets out the key building safety information. The file will then be updated and ultimately passed across to the person accountable for safety during the occupation phase

fire engineer

A person with the ability to apply scientific and engineering principles, rules and expert judgement, based on an understanding of the phenomena and effects of fire and of the reaction and behaviour of

people to fire, to protect people, property and the environment from the destructive effects of fire.

fire risk assessment

A systematic examination of the building structure, fabric and services to assess the likelihood of fire and the impact to those who may be affected if a fire occurs. Under the Regulatory Reform (Fire Safety) Order 2005, a fire risk assessment must evaluate the risk from fire to relevant persons (persons lawfully on the premises and/or persons in the immediate vicinity who are at risk from fire on the premises) for the purpose of identifying the general fire precautions needed to comply with the provisions of the Order

Full Plans

We propose that Full Plans should be produced by the principal designer and that these should include detailed plans/specification of building works in respect to all aspects of the building regulations.

gateway points

Three key stages in the building life-cycle where the dutyholder must demonstrate that they are managing building safety risks appropriately before they are permitted to continue to the next stage of development. Gateway one occurs before planning permission is granted, gateway two before construction begins and gateway three before the building's occupation.

Health and Safety Executive

The workplace health, safety and welfare regulator for Great Britain established under the Health & Safety at Work etc Act 1974. HSE enforces the CDM regulations.

higher risk residential building (HRRB)

Multi-occupancy higher risk residential buildings (that are 18 metres or more). They are the primary focus of the new regulatory framework set out in this consultation.

Housing Health and Safety Rating System (HHSRS)

A risk-based evaluation tool to help local authorities identify and protect against potential risks and hazards to health and safety from any deficiencies identified in dwellings

Implementation Plan

Refers to 'Building a Safer Future: An Implementation Plan'. Published in December 2018 this set out how we intend to take forward Dame Judith Hackitt's recommendations.

Independent Expert Advisory Panel

Chaired by Sir Ken Knight, the government appointed the Expert Panel to advise the Secretary of State for Communities and Local Government on immediate

	building safety measures following the Grenfell Tower fire.
Industry Response Group (IRG)	Established following the Grenfell Tower fire to support the process of building remediation. The aim of this group is to provide expert advice on construction solutions to make ACM-clad buildings safe; ensure access to technical expertise in industry where required; advise on construction industry expertise and capacity to undertake remedial work
Joint Competent Authority (JCA)	The combined regulatory oversight body for HRRBs proposed by Dame Judith Hackitt in her Independent Review. Comprised of the Health and Safety Executive, Local Authority Building Standards and fire and rescue authorities.
Joint Regulators Group (JRG)	Comprised of the Health & Safety Executive, Local Authority Building Control, the National Fire Chiefs Council, and the Local Government Association. The JRG provides advice on how best to implement the new regulatory regime for higher- risk buildings in scope
Local Authority Building Control (LABC)	In this consultation local authority building control services are referred to as Local Authority Building Control – each local authority remains individually responsible for the delivery of building control services in its area.
New Homes Ombudsman	A proposed new service to protect the rights of purchasers of new build homes and provide free, easy and effective redress
Office for Product Safety and Standards (OPSS)	Part of the Department for Business Energy and Industrial Strategy (BEIS), the OPSS oversees the regulatory system for product safety and standards in the UK.
Principal Contractor	Under the Construction (Design and Management) Regulations 2015 a Principal Contractor is a contractor appointed by the client to take lead control during the construction phase of any project where there is more than one contractor involved.
Principal Designer	Under the Construction (Design and Management) Regulations 2015 a Principal Designer is a designer who is an organisation (or, in some cases, an individual) appointed by the client to take lead control

of the pre-construction phase of any project where there is more than one designer involved.

Public Interest Disclosure Act

Public Interest Disclosure Act 1998 protects workers from detrimental treatment or victimisation from their employer if, in the public interest, they make certain types of protected disclosures. More commonly known as whistleblowing protections.

Regulation of Property Agents (RoPA) Working Group

A working group, chaired by Lord Richard Best, tasked with advising government on a new regulatory framework for property agents.

Resident Engagement Strategy

A document or series of documents that, under our proposals, sets out how accountable persons will deliver a partnership approach to the management of high-rise residential buildings in a way that enables residents to participate in and directly influence decision-making about the safety of their homes

Residents' Reference Panel

A focus group of higher risk-rise residential building residents who meet quarterly with MHCLG officials to discuss policy proposals.

Responsible Person

Under the Regulatory Reform (Fire Safety) Order 2005, a responsible person is generally an employer or, in premises which is not a workplace, the owner or other person who has control of the premises in connection with carrying on of a trade, business or other undertaking (whether for profit or not).

safety case

An evidence-based approach in which the dutyholder must demonstrate to the building safety regulator that life-critical risks within a given building are being proactively managed.

Standing Committee on Structural Safety (SCOSS)

An independent body supported by the Institutions of Civil and Structural Engineers and the Health & Safety Executive to maintain a continuing review of building and civil engineering matters affecting the safety of structures

Annex I: About this consultation

This consultation document and consultation process have been planned to adhere to the Consultation Principles issued by the Cabinet Office.

Representative groups are asked to give a summary of the people and organisations they represent, and where relevant who else they have consulted in reaching their conclusions when they respond.

Information provided in response to this consultation, including personal information, may be published or disclosed in accordance with the access to information regimes (these are primarily the Freedom of Information Act 2000 (FOIA), the Data Protection Act 2018 (DPA) and the Environmental Information Regulations 2004

If you want the information that you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory Code of Practice with which public authorities must comply and which deals, amongst other things, with obligations of confidence. In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Ministry.

The Ministry of Housing, Communities and Local Government will process your personal data in accordance with DPA and in the majority of circumstances this will mean that your personal data will not be disclosed to third parties.

Individual responses will not be acknowledged unless specifically requested.

Your opinions are valuable to us. Thank you for taking the time to read this document and respond.

Are you satisfied that this consultation has followed the Consultation Principles? If not or you have any other observations about how we can improve the process please contact us via the [complaints procedure](#).

Personal data

The following is to explain your rights and give you the information you are be entitled to under the Data Protection Act 2018.

Note that this section only refers to your personal data (your name address and anything that could be used to identify you personally) not the content of your response to the consultation.

1. The identity of the data controller and contact details of our Data Protection Officer

The Ministry of Housing, Communities and Local Government (MHCLG) is the data controller. The Data Protection Officer can be contacted at dataprotection@communities.gsi.gov.uk

2. Why we are collecting your personal data

Your personal data is being collected as an essential part of the consultation process, so that we can contact you regarding your response and for statistical purposes. We may also use it to contact you about related matters.

3. Our legal basis for processing your personal data

The Data Protection Act 2018 states that, as a government department, MHCLG may process personal data as necessary for the effective performance of a task carried out in the public interest. i.e. a consultation.

4. For how long we will keep your personal data, or criteria used to determine the retention period.

Your personal data will be held for two years from the closure of the consultation.

5. Your rights, e.g. access, rectification, erasure

The data we are collecting is your personal data, and you have considerable say over what happens to it. You have the right:

- a. to see what data we have about you
- b. to ask us to stop using your data, but keep it on record
- c. to ask to have all or some of your data deleted or corrected
- d. to lodge a complaint with the independent Information Commissioner (ICO) if you think we are not handling your data fairly or in accordance with the law. You can contact the ICO at <https://ico.org.uk/>, or telephone 0303 123 1113.

6. The Data you provide directly will be stored by Survey Monkey on their servers in the United States. We have taken all necessary precautions to ensure that your rights in terms of data protection will not be compromised by this.

7. Your personal data will not be used for any automated decision making.

8. We use a third-party provider (Survey Monkey) to gather data. Once the consultation has closed, your data will be moved to a secure government IT system.