
Group – Property Management

Purpose: Managing Derwent London's Properties in line with the new Fire Safety Bill

Introduction

Dame Judith Hackitt's Independent Review of Building Regulations and Fire Safety (the Independent Review) outlined a new approach to managing fire and structural safety risks in high-rise multi-occupied residential buildings. She found that the current regulatory system covering high-rise multi-occupied residential buildings was not fit for purpose, leaving room for those who wish to take shortcuts to do so. The Independent Review set out recommendations to establish a new regulatory regime and achieve culture change within the fire safety and built environment sector that will deliver a reformed building safety system. The Government accepted all the findings of the Independent Review and published an Implementation Plan in December 2018 setting out how the recommendations would be taken forward. Since then further work has been progressed, which on the 19th March saw the launch of the new Fire Safety Bill (White Paper), the new bill aims to help people feel safe in their own homes around the country, whilst ensuring that a fire related tragedy similar to that of Grenfell Tower fire never happens again.

Purpose

To provide the business with an overview of the new Fire Safety Bill (white paper due to be passed as law in October 2020) and how it will impact on our business operations.

Approved Document B has had a full technical review and guidance made under the Building Regulations, involving sprinklers, wayfinding and evacuation alert systems for new build flats and a ban on the use of combustible materials. Furthermore, the new regulations now incorporate a ban on all external wall materials being combustible, they have also reduced minimum height for these rules from 18m down to 11m.

- **Housing Health and Safety Rating System** is being undertaken, which may also introduce minimum standards.
- **Fire Safety Bill** to clarify that external walls (including cladding, balconies, and windows) and the front doors to individual flats in multi-occupied residential blocks fall within the scope of the *Regulatory Reform (Fire Safety) Order 2005*.
- **Building Safety Charter** Considerate Constructors Scheme to act as administrative partner. Voluntary approach established to create an 'an industry committed to putting people's safety first. (in place to support and align with the Building Safety Regulator).

1. Principles for a Reformed Building Safety System

- **Creation of Building Safety Regulator** responsible for implementing and enforcing a more stringent regulatory regime for buildings in scope providing stronger oversight of safety and performance of all buildings and increasing the competence of those working on building safety. The HSE have been made accountable as the Building Safety Regulator but they will not really be effective until the Fire Safety Bill becomes law.

- **Duty holder regime operating over the life span of the building** including design and construction and showing that the building is safe and healthy to occupy.
- **Remove the choice of building control body** and return to local authority building control complemented by Approved Inspectors.
- **Duty Holder regime will continue into occupied buildings** imposing the role of an **Accountable Person** who will be responsible for understanding fire and structural risks.
- **Building Safety Manager** appointed by the Accountable Person and approved under a system defined by the Building Safety Regulator, will deliver the day-to-day functions on behalf of the Accountable Person. He will be required to proactively engage and communicate with residents through a mandated **Resident Engagement Strategy**. Residents will therefore have a mechanism for being kept informed and to be able to participate in the decision making regarding the building and understand their safety responsibilities. *For Derwent London this will mean we will need to consider additional resources and funding to appoint the Accountable Person and Building Safety Managers.*
- **Establish a new Construction Products regulatory role** to oversee and strengthen the existing construction products regulatory regime.

2. A more effective regulatory framework: The Building Safety Regulator

- **Building Safety Regulator** – New Safety Regulator (HSE) responsible for:
 - Implementing a more stringent regulatory regime for buildings in scope
 - Overseeing the safety and performance of all buildings
 - Promoting the competence and organisational capability of professionals, tradespeople and building control professionals working on all buildings.
 - This now sits within the HSE and their expertise and knowledge intended to drive a regime where duty-holders would be properly held to account by a robust regulator.
 - A clean break from existing regime, it should draw on expertise and knowledge that exists in, for example Local Authorities and Fire and Rescue Service
 - Report to Secretary of State for Housing who will retain overall responsibility for the regulatory system.
 - Regulator responsible for all the major regulatory decisions made at key points during design, construction, refurbishment and occupation of buildings in scope.

Other duties of the Regulator include:

- Establishing a National Register of Buildings in scope
- Ensuring that Residents' complaints about safety issues for buildings in scope that have been escalated to the Regulator are investigated and dealt with in a timely manner
- Producing guidance to help duty-holders in managing the safety risks of buildings in scope to discharge that responsibility
- Advising on current and emerging safety risks in buildings in scope.
- Hosting centres of excellence to strengthen enforcement
- Work with technical experts and the construction industry to ensure that those who design, and construct buildings are given access to innovative advice on best practice including advising the Government on changes to Building Regulations and Approved Documents.

- Overseeing and publishing reports on the performance of Building Control Bodies
- Advise on current and emerging risks to building safety and performance
- Assessing and assuring the competence of people in the industry

3. A more rigorous approach to accountability: the system of duty holders

During design and construction:

When buildings are designed, constructed, or refurbished duty holders, as per CDM, will be given formal responsibilities for compliance with building regulations.

These duty holders will typically be an organisation but could be a single named individual. *(This will impact Derwent London as a developer and construction Client under CDM)*

DUTY HOLDERS:

Client, Principal Designer, Principal Contractor, Designer(s), Contractor(s)

Clear guidance and duties to support the development of safer buildings and more stringent regulatory regime.

All duty holders will:

- Cooperate and share information with Building Safety Regulator
- Ensure compliance with Building Regulations
- Comply with the specific regulatory requirements imposed upon them
- Ensure they and the people they employ are competent to do the work they are undertaking

GATEWAY ONE

Before Planning permission is granted and when fire issues impacting on planning should be considered.

Developer required to submit a Fire Statement setting out fire safety considerations specific to the development.

Local Planning Authority will consult with local Fire and Rescue Service.

Local Planning Authorities will need to study the impact of developments on nearby buildings and the fire safety provisions available. *We will need to consider allowing additional time and resource before we progress to Gateway Two.*

GATEWAY TWO

Before construction begins and at the 'deposit of full plans' stage.

Under the new regime, the Building Safety Regulator will take on the role of Building Control Body and be legally responsible for regulating in-scope buildings in respect of Building Regulations.

The Client will be required to submit key information to the Building Safety Regulator demonstrating how they are complying with Building Regulations through the submission of:

- Full Plans
- Construction control plan
- Fire and emergency file
- Other supporting documentation

These will be reviewed and checked to ensure they demonstrate they are managing buildings effectively.

The Client will also be required to ensure that the Principal Designer and Principal Contractor

can demonstrate the necessary competence to discharge duties effectively. This will be achieved using our list of approved suppliers, which requires them to complete a competency assessment specific to their duty holder role.

Building Safety Regulator will give permission for construction to begin when they are happy that everything is in place. They will also set an appropriate inspection programme for specific stages of the construction work.

In complex buildings the Building Safety Regulator will allow for a staged approach to construction. The Principal Contractor will not be permitted to start on the next stage of construction until the previous stage has been signed off.

Change control strategy must be submitted as part of the construction control plan. Critical safety management changes will need to be notified to the Building Safety Regulator before further work can commence. *As Gateway One we will need to allow additional time and resource to accommodate the requirements.*

GATEWAY THREE

This is before occupation.

Building Safety Regulator will provide the building control function working with local regulators. At this stage the Client will be required to submit to the Building Safety Regulator information on the final, as built building. This will include:

- Updated as-built plans indicating any agreed variations since Gateway Two
- A complete construction control plan
- An updated fire and emergency file
- A complete key dataset

The Client, Principal Designer and Principal Contractor will also need to produce and co-sign a final declaration confirming that to the best of their knowledge the building complies with Building Regulations.

Key information related to fire and structural safety submitted during the three Gateways will form part of the Golden Thread of data that will be kept up to date and made accessible to relevant people through the life-cycle of the building.

The Building Safety Regulator will have the ability to grant partial occupation of the building. This should form part of the design strategy from the outset. A suitable fire management strategy should be in place.

No building can be occupied until the Building Safety Regulator has issued a Building Registration Certificate. For partial occupation an interim Building Registration Certificate will be issued.

Accountable Person

A new role legally responsible for ensuring that the fire and structural risks in the building and to take the appropriate steps and actions to mitigate and manage them.

Appoint a competent Building Safety Manager to support them in carrying out the day-to-day tasks.

Accountable Person will be an individual, partnership or corporate body with the legal right to receive funds through service charges or rent from leaseholders and tenants in the building. The

Accountable person will also have responsibility for the upkeep and maintenance of the structure of the outside of the building, plant room and common areas.

Building Registration Certificate

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

On granting the Building Registration Certificate the Building Safety Regulator may attach specific conditions to it with the Accountable person obliged to comply or face penalties including possible criminal sanctions.

Three types of condition:

- *Special conditions* – to deal with specific conditions imposed by the Building Safety Regulator
- *Voluntary conditions* – Proposed by the Accountable Person
- *Mandatory conditions* – Apply to all buildings within scope

Without a Building Registration Certificate, a building in scope cannot be legally occupied. The Building Safety Regulator can review the Building Registration Certificate with a view to adding, amending, or varying the conditions.

The Building Safety Regulator will have the power to require the Accountable Person to appoint a replacement Building Safety Manager where there is continued non-compliance.

The Building Registration Certificate **must** be displayed in a prominent area of the common parts of the building. To ensure residents can easily identify and hold accountable those responsible for safety the Certificate will have the names of the Accountable Person and Building Safety Manager on it along with any special conditions.

Building Safety Manager

A new role and to be appointed by the Accountable Person can either be a legal entity or a natural person. Accountable Person must make enough resources available (include time and funding) to allow the Building Safety Manager to:

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

The Building Safety Manager is representing the Accountable Person and therefore they must be sure that the appointee has the necessary skills, knowledge, and experience to carry out the functions.

The Safety Case

Submitting a safety case report to the Building Safety Regulator will be a mandatory requirement. The Building Safety Manager will be responsible for keeping the safety case up to date. This is a means of ensuring that the fire and structural risks in the building are mitigated and managed. The safety case should include an introduction by the Building Safety Manager stating how the fire and structural risks are being managed. This should be followed by a written explanation and justification of the approach being taken to manage risks, referencing the supporting evidence in the safety case.

In submitting the safety case the Accountable Person will make the case to the Building Safety Regulator that the fire and structural safety risks in the building have been assessed and adequate safety measures have been identified and implemented to manage the risk appropriately. *(like our existing Fire Risk Assessments)*.

The Building Safety Regulator may require the mitigations to be changed under review. The Building Registration Certificate and safety case will be reviewed at regular intervals by the Building Safety Regulator or at other times when there is a change in circumstances or personnel.

Across the life cycle of the building:

Golden Thread

Duty holders will be responsible for creating and maintaining the golden thread of building information related to fire and structural integrity. *This information could be stored within the O&M Manual*

The information will need to be held digitally. *We will need a platform to store this information*

At Gateway Three key information will be handed over from the Client to the Accountable Person who will take on responsibility for keeping the information up to date and accurate.

Mandatory Occurrence Reporting

Mandatory Occurrence will be defined as any structural safety or fire safety related event that is perceived to represent a significant risk to life in a multi-occupational building.

Duty Holder Competence

Each duty holder must have the correct skills, knowledge, training and experience to be able to carry out their role.

Existing buildings within scope

Existing buildings within scope *(we will provide a Derwent London property list highlighting building which are within the scope)* will enter the more stringent regulatory regime at occupation phase. However, there will be a staged transition period and the Building Safety Regulator will consider information available to the Accountable Person at the time of the application. More details to follow.

During a refurbishment

Before refurbishment takes place and subject to Building Regulations the Accountable Person or the Building Safety Manager must apply to the Building Safety Regulator for building work to take place. Work cannot start without this approval.

If the works do not trigger the Building Regulations but could have an impact on fire and/or structural safety, then the Building Safety Manager must notify the Building Safety Regulator, but work can commence before a response is received.

Residents proposing a change to their own property must notify the Building Safety Manager. If required, the Building safety Manager will need to update the safety case and confirm to the resident whether or not the refurbishment can be undertaken. If the changes impact upon Building Regulations or the fire/structural safety, then the resident will need to notify the Building Safety Regulator prior to and on completion of the work.

Throughout all refurbishment work, the safety case must be updated. To demonstrate how risks are being predicted, planned for and managed as appropriate and where necessary.

Remediation

The Accountable person will be expected to rectify any unknown fire and structural risks to protect the safety of the residents as a priority.

The Accountable person will be responsible for any defects in the safety case.

4. As stronger voice for residents – The Resident Engagement Strategy

Residents of buildings in scope will:

- Have rights to receive information about the safety of their building
- Be able to request access to appropriate detailed safety information
- Be involved in decisions about the safety of their building
- Have their complaints about safety dealt with quickly and effectively?

Engagement

The Building Safety Manager will be required to produce an implement a Resident Engagement Strategy setting out how they will inform and engage with the residents and involve them in decision making.

In the strategy the Building Safety Manager will have to demonstrate:

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

Raising and Escalating Complaints

Access to a clear and transparent process to complain to their Building Safety Manager

Resident Engagement Strategy will set out:

- How decisions will be communicated
- Expected timescales for response
- Investigations
- Final response and close out

These will need to be kept by the Building Safety Manager to be submitted to the Building Safety Regulator at the periodic review.

Where a resident feels their complaint has not been dealt with they can appeal directly to the Building Safety Regulator.

Residents' responsibilities

New statutory duty for resident to comply with Building Safety Manager.

Residents have legal responsibilities to avoid actions that could pose a risk to the fire and structural safety of the building.

This could be such as:

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

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

Establish a new national Construction Products regulatory role responsible for:

- Market surveillance and oversight of local enforcement action including maintaining a national complaints system
- Enforcement action with manufacturers
- Providing advice and support to the industry and technical advice to the Government

Looking to take forward the development of standards of third-party certification with BSI and UKAS

Construction Products Standards Committee

Comprised of technical experts and academics and will advise Government on whether voluntary industry standards should become UK regulatory standards.

Will also advise on:

- The assumptions and weaknesses within the current testing regime
- Ways to improve it
- Innovation in how construction products are tested.

6. Promoting competence: improving performance across the industry and within building control

BSI will lead a Competence Steering Group to set out minimum standards for Principal Designer, Principal Contractor and Building Safety Manager. Developed with industry and other stakeholders.

The Building Safety Regulator will establish a new industry led committee to develop competencies through a number of oversight and assurance functions.

Building Control Competence

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

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

Incentivising the right behaviour

Introduction of Gateways in design and construction phases will create hold points for the Building Safety Regulator to prevent work from continuing if they are not satisfied.

During occupation the Accountable Person must understand and manage fire and structural safety risks and to manage and monitor ongoing risks as they arise. Residents will need to comply with the Building Safety Manager in the discharge of their duties.

Enforcement and Sanctions

Collaborative approach should be the first means of compliance through informal advice. Failing this the Building Safety Regulator will be able to issue 'stop', 'compliance' or 'improvement' notices. If these notices fail to produce compliance the Building Safety Regulator will have the power to take other enforcement action against the duty holders.

The sanctions should reflect the degree to which the breach of fire and/or structural safety has taken place.

8. Interacting with existing regulatory framework regimes

Fire Safety Order consultation about the linking between the Housing Act 2004 and Fire Safety Order to take place in Spring 2020.

9. Improving the whole system

FIRE SAFETY BILL – In Parliament on 19th March – Updates Regulatory Reform (Fire Safety) Order for Risk Assessment to include external walls (including cladding and balconies) and front entrance doors and to provide a firm foundation for the implementation of the recommendations of the Grenfell Inquiry Phase 1 report.

TESTING OF Non-ACM CLADDING SYSTEMS – Research shows that none of the materials tested performed in the same way as the ACM-PE cored panels.

UPDATE TO Approved Document-B – Changes will include sprinkler systems and wayfinding signs above 11 metres. Review to take place.

WIDER CHANGES TO THE BUILDING ACT – Further changes to the building regulation system being discussed and considered.

PROCUREMENT – Ways that construction is procured are being discussed.

Further help and contacts: If you need any further information or guidance please contact any member of your Health & Safety Team.