

Briefing:

Independent Review of Building Regulations and Fire Safety – final report

Member briefing

22 May 2018

Building a Safer Future, the final report of the independent review led by Dame Judith Hackitt following the Grenfell Tower fire, was published on Thursday 17 May 2018. This short guide for members summarises the report, including:

- Dame Judith's personal introduction and key recommendations
- the scope of a new regulatory framework
- detail on major proposed changes
- Government response
- National Housing Federation response
- conclusions and next steps.

1. Introduction

In response to the tragic fire at Grenfell Tower on 14 June 2017 and subsequent wider building safety concerns, Dame Judith Hackitt was asked to lead an independent review of building regulations and fire safety, with a particular focus on multiple-occupancy, high-rise residential buildings.

The final report, published on 17 May 2018, sets out a new regulatory framework which seeks to address the failings identified and drive behavioural and cultural change across the industry. The report argues that only genuine system transformation will ensure that people living in high-rise buildings are safe and have confidence in the safety of their building.

The National Housing Federation [responded to the initial call for evidence](#) and submitted a [second document summarising member views in March](#). We also sat on a working group for the review focusing on safety during occupation and maintenance.

2. Summary of Dame Judith Hackitt's personal introduction

The report opens with a personal message from Dame Judith Hackitt. She argues that the significant failings in the current system must be addressed through a new comprehensive regulatory framework which drives real culture and behavioural change. The principles underpinning such a framework would be:

- a clear model of risk ownership with clear responsibilities for those with defined roles
- a simpler and more effective outcome-based regulatory approach which incentivises the right behaviours and penalises those who seek to game the system
- a risk-based approach to regulatory oversight
- transparency of information and a clear audit trail throughout the life cycle of the building.

While recognising that it will take time and legislative change to truly embed the systemic changes she recommends, Dame Judith is clear that the process of behavioural and cultural change can start now. She also recognises both the importance and the challenges of applying the new principles to existing stock.

Key recommendations in the full report include:

- A new regulatory system should be established for high-rise residential buildings, overseen by a single regulator. This Joint Competent Authority (JCA) – made up of Local Authority Building Control, fire and rescue authorities and the Health and Safety Executive – would be able to apply sanctions where duties aren't being met, similar to those used in workplace health and safety legislation. It would operate on a full cost recovery model.
- High-rise residential buildings are defined as being 10 storeys and higher, rather than 18m. The Review also calls for many key recommendations to be extended to other multiple-occupancy residential buildings covered by the Fire Safety Order, and some other institutional residential buildings where people sleep, including care homes.
- There should be clear duty holders responsible for the fire and structural safety of a high-rise residential building throughout its lifetime. During design and construction, these duty holders are likely to be the commissioning client, the principal designer and the principal contractor. Once the building is occupied, the duty holder should be the building owner or superior landlord.
- The duty holder must nominate a building safety manager with the relevant skills, knowledge and expertise to assist in discharging their duties and to be available to residents concerned about safety in their building.

- In-depth digital records should prove that a high-rise residential building is built and managed safely. In design and construction, these records would be developed and checked by the regulator at key points and work will not progress until the JCA is confident that safety measures are as they should be. Once the building is occupied, record keeping should move to a Safety Case Regime approach, whereby a duty holder provides in-depth evidence to the JCA about how safety risks are being managed.
- For existing buildings, the duty holder must undertake an information-gathering exercise to build a record of how the building is constructed and how safety should be managed. This may require invasive building surveys. A phased programme for this should be developed by the JCA.
- Whole-building Fire Risk Assessments (FRAs) should be carried out annually until the JCA has reviewed a building's safety case documents, at which point an appropriate routine can be agreed between the JCA and duty holder.
- An action plan for filling competency gaps in key roles across the construction and building management sectors, including building safety managers, should be delivered within a year.
- Residents should have the right to access Fire Risk Assessments and safety case documents. Duty holders should have a resident engagement strategy setting out how information will be shared with residents.
- Residents should have clearer obligations to maintain their flat's safety and should cooperate with the duty holder and building safety manager. The intention of this recommendation relates to access to residents' properties where there are safety concerns.

3. The principles and scope of a new regulatory framework [\(p.17\)](#)

3.1 Buildings in scope

The review recommends that the new regulatory framework should initially apply to residential properties which are 10 or more storeys high.

These are defined as higher-risk residential buildings (HRRBs). New HRRBs should be identified by the Local Planning Authority and notified to a new regulator. Existing HRRBs should be identified through other means, drawing on the experience of the Ministry of Housing, Communities and Local Government (MHCLG) Building Safety Programme.

However, the report recommends that the Government retains the ability to broaden this definition in future should it need to. Some of the recommendations and features of the new regulatory regime will be applicable beyond HRRBs, particularly to other multi-occupancy residential buildings (such as blocks of flats lower than 10 storeys) and institutional residential buildings (such as hospitals and care homes). Similarly, some of the recommendations apply to all building work of any scale.

3.2 A new regulator

A Joint Competent Authority (JCA) should be created to oversee the new regulatory framework for HRRBs. The JCA would comprise Local Authority Building Control, fire and rescue authorities and the Health and Safety Executive.

The report recommends that the JCA operates a full cost recover model, meaning that all key engagements between duty holders and the JCA would be chargeable.

Key responsibilities of the JCA would be:

- Creating and maintaining a database of all HRRBs and key duty holders for those buildings.
- Reviewing key evidence supplied by a duty holder during the design and construction phase to ensure safety risks are being managed.
- Reviewing how duty holders are reducing risks throughout occupation and maintenance of buildings.
- Handling and assessing immediate ad-hoc building safety concerns made about specific HRRBs. These could be raised by duty holders, environmental health officers or residents via a new independent body.
- Requesting testing of construction products that are critical to HRRB building safety on a reactive basis when concerns arise.
- Request annual reports from product testing houses providing summary details of the types of tests carried out and the numbers of passes and fails reported
- Help to validate and quality assure regulatory guidance.

3.3 A whole building approach to safety

A new overarching Approved Document should be published describing safety outcomes that need to be achieved in an HRRB as a whole. This document should reflect the complex nature of these types of buildings, recognising the interdependencies that need to be considered, such as how thermal efficiency improvements could impact on fire safety decisions

HRRBs must be actively assessed as a whole building system that is made up of interdependent components. Duty holders will be expected to present a case to the JCA for the layers of protection they are proposing to deploy in the building. It is critical that building safety does not overly rely on one layer of mitigation or protection to the exclusion of others.

3.4 Blame free incident reporting

Duty holders should be required to report to the regulator major events that affect a building's safety during construction or occupation, on a no-blame basis. The outputs of these reports should be publicly available and non-reporting should be regarded as non-compliance.

Given the risks associated with poor-quality building work on HRRBs, the review recommends that a new 'mandatory occurrence' reporting route to the JCA is applied.

4. Detailed recommendations

The review makes detailed recommendations for a new regulatory framework across the entire building lifecycle, taking into account the diverse factors which can influence building safety. These include:

- design, construction and refurbishment
- occupation and maintenance
- residents' voice
- competence
- guidance and monitoring to support building safety
- products
- golden thread of building information
- procurement and supply

4.1 Design, construction and refurbishment (p.29)

The review's objectives are to ensure that every building is:

- procured, designed and constructed in such a way that building safety is sufficiently prioritised throughout
- designed and constructed so that everyone involved in delivering the building work has the information, instruction and skills they need to support of this overall aim
- designed and constructed to facilitate the ongoing safe management of the building by future building owners or residents.

Responsibility for overseeing delivery of these aims will be split across three duty holder roles: clients, principle designers and principle contractors. This would align the new system to current Construction, Design and Management (CDM) regulations.

These responsibilities require clients to tighten up their processes to ensure that they understand how their project is being delivered. Because of these duties it may be that more clients seek to employ a clerk of works type role to act as their eyes and ears throughout the construction process.

The review also identified four key information products that are integral to greater duty holder oversight:

- **a digital record** of the building as planned and then as built
- **the Fire and Emergency File** to provide a clear and comprehensive record of the fire strategy for the building and its residents
- **full plans** to demonstrate to the JCA that the building will be constructed to be safe and risks are understood and managed
- **a Construction Control Plan** to describe how building safety and compliance with regulations will be managed in construction, and to evidence how change is controlled and recorded.

New 'Gateway Points' should be introduced to support quality control and regulatory oversight all the way through a construction process.

The review proposes the creation of new Gateway Points to ensure rigorous, safety-focused oversight by duty holders building HRRBs. Approval from a JCA at these key stages will be necessary for works to progress. The Gateway Points, and the requirements at each, would be:

- **planning permission** – satisfy the JCA that the planned building will be sufficiently accessible by the fire service
- **full plans approval** – show how safety risks are managed and demonstrate how the building will meet regulatory standards
- **completion stage** – satisfy the JCA that the signed-off plans were followed and that all the necessary safety documentation is in place prior to occupation.

There should be a clearer, statutory change control process that requires the relevant duty holder to notify the regulators of significant changes made during construction.

There is currently no clear process for controlling, recording or reviewing changes agreed during the construction process. This needs to change to deliver duty holder accountability and provide greater assurance to the JCA.

Under the system proposed in the report, major changes would require an update from the duty holder to the JCA before work can take place. Minor changes would need to be recorded and identifiable at the completion of the works.

The review also concludes that work carried out on HRRBs under the competent person's scheme should also be subject to full oversight by the JCA.

Clients should no longer be able to choose their own regulator – instead, there should be a single, streamlined regulatory route for building control, overseen solely by Local Authority Building Control.

The review identifies structural weaknesses in the division and discrepancies between Local Authority Building Control (LABC) and private Approved Inspectors (AIs) and argues that the current regulatory structure for building control is insufficient. The AI regime would continue to exist in a more limited role, but no AI could be used to provide both verification/consultancy services and any form of regulatory oversight for the same building.

It is also recommended that there is an overall review of how building control operates and that LABC should be renamed Local Authority Building Standards (LABS)

A clearer and stronger sanctions and enforcement framework is needed where non-compliance is identified.

The proposed framework would broadly replicate the Health and Safety at Work Act, namely:

- there should be powers to issue formal Improvement and Prohibition Notices to duty holders
- the JCA/LABS should have the clear power to require changes to work that fails to meet the building regulations requirements, alongside any broader penalties sought
- time limits for bringing prosecutions against duty holders for 'major' deficiencies identified at a later date should be increased to five or six years
- the JCA cost recovery model should be weighed so as to create a fund for enforcement action where needed
- the new powers should be available to support the JCA or LABS in respect of all non-compliant building work.

4.2 Occupation and maintenance ([p.49](#))

The Government should specify that responsibility for all parts of a HRRB must be held by a clear, senior duty holder which should be the building owner or superior landlord.

The duty holder must nominate a named 'building safety manager' with relevant skills, knowledge and expertise to be responsible for the day-to-day management of the building and act as a point of contact for residents.

The duty holder will be accountable for the structural and fire safety of the whole building. This accountability must remain with the duty holder and cannot be passed on or delegated, although certain tasks can be delegated to the building safety manager. Residents and any other landlords of dwellings or premises in the building will be expected to cooperate with the duty holder on safety matters.

Under such a system, the JCA and residents must be kept notified of the name and UK-based contact information of the duty holder. The JCA and residents must be notified of the building safety manager's name and contact information, which must also be displayed in the building.

Where there are multiple building owners, all must retain the responsibilities and accountability of the duty holder role to ensure they are not able to obstruct the duties being discharged without being held to account. In practical terms, they may nominate one owner to the JCA as the main contact.

The review recommends that the Government should make duty holders of HRRBs responsible for:

- taking such safety precautions as may reasonably be required to ensure building safety risk is reduced so far as is reasonably practicable
- ensuring that information management systems are in place in order to maintain relevant documentation and compile and maintain a safety case file
- ensuring that there is a resident engagement strategy and that residents receive information on fire safety in an accessible manner
- handing over all relevant information to a new duty holder when a building changes hands.

During occupation, the duty holder for a HRRB should proactively demonstrate to the JCA, through a safety case made at regular intervals, that they are discharging their responsibilities. The safety case must identify hazards and risks, describe how risks are controlled, and describe the safety management system in place.

For HRRBs built under the new system, Gateway Point 3 provides assurance of the safety of the building at completion. The JCA and duty holder will discuss and agree what an appropriate frequency of intervention should be during occupation, based on the level of risk. The JCA will also verify that a pre-occupation Fire Risk Assessment has taken place and that there is an initial resident engagement strategy in place.

The safety case file should include:

- information on the building management system in relation to fire and structural safety
- records of maintenance, inspection and testing undertaken on the structure and services
- evidence that the competence of those undertaking work on the building was sufficient
- a resident engagement strategy
- the maintained and updated Fire and Emergency File and digital record
- a copy of any fire safety inspections undertaken by the duty holder and/or JCA
- a copy of the latest Fire Risk Assessment and evidence of actions taken and the competence of the person who performed it.

For existing buildings, the review recommends that a set of minimum building data be included in the safety case. More detail about this data is covered later in this briefing.

At a safety case review, the JCA will assess the safety case and may inspect the building to determine whether the duty holder is discharging their responsibilities effectively and whether the building is safe. Where necessary, they will be able to impose improvement notices and use other enforcement and sanction powers.

The 'so far as is reasonably practicable' approach takes into account what changes would be reasonable in relation to the risk and cost, allowing application to buildings on a case-by-case basis dependent on overall risks identified and mitigations in place. The review notes that national guidance on establishing a consistent approach to this key element of the framework will be needed.

Safety case reviews should generally take place every five years, but the JCA should have the power to call one earlier if needed, including where:

- A significant refurbishment is planned
- There has been an incident, or significant concerns have been raised from a credible source

Fire Risk Assessments should happen annually until the first safety case review has happened and should be carried out by a person of appropriate competence.

The review concludes that the level of competence should not be mandated. Instead, it should be for the duty holder to satisfy themselves that the assessor was suitably skilled. The report also notes that any recommendations or requirements outlined in the Fire Risk Assessment should be completed in a timely manner.

Residents will be expected to cooperate with the duty holder so that they can discharge their duties.

This will include:

- allowing access for maintenance, testing and inspection of fire safety systems
- ensuring that fire compartmentation from the inside of the flat, including front doors, is maintained to a suitable standard
- ensuring that any fire safety systems in the flat that could impact on the fire safety of the building are maintained, tested and inspected to a suitable standard
- an assumption that improvements, where necessary, are permitted by any lease in relation to building safety measures.

In addition, the JCA must have powers to intervene where there are immediate risks to safety, including access to the whole building and individual dwellings where there is reasonable evidence that building and life safety is at risk.

Environmental health officers operating under the Housing Health and Safety Rating System will also be expected to raise any fire or structural issues with the JCA.

The JCA will assess the safety case to verify that risk is being managed effectively and may make suggestions for:

- resident involvement to be improved
- greater evidence be provided on the competence or oversight of tradespeople carrying out work that could affect building safety
- specific building improvements needed to reduce risk so far as is reasonably practicable.

Such improvements would be delivered via a Building Improvement Notice, which would have statutory footing and include timescales for completion.

For HRRBs, robust sanctions and strong incentives to drive compliance are proposed, ranging from education, statutory notices, fines and ultimately criminal sanctions.

4.3 Residents' voice ([p.63](#))

Duty holders for HRRBs should have a statutory duty to proactively provide residents with a set of information that supports them to understand the layers of protection in place to keep their building safe.

The outcome of the safety case should be translated into a 'safety rating' for the building. This would allow residents to benchmark the safety of their building against others and incentivise the duty holder to quickly bring about improvements where required.

The review argues that a cultural change is required to rebuild trust and ensure that residents feel safe in their homes again. It does not prescribe how relationships between duty holders and residents

should work, but sets out the principles of transparency, collaboration and accountability as being the foundations for positive and effective interaction on safety issues.

The information provided by the duty holder should include a clear evaluation of the safety case, indicating how safe the building is, and a summary of the most recent FRA. The information should also include any steps that residents need to take within their own homes to maintain the integrity of the installed systems. This information should be provided with the contact details of the building safety manager and duty holder, and clear processes for raising concerns.

The duty holder should also notify residents of any relevant notices issued by the JCA, environmental health officers and other regulators in relation to safety.

The duty holder for a HRRB should have a resident engagement strategy in place to support the principles of transparency of information and partnership with residents.

This strategy should outline how information will be shared with residents, how they will be informed of their rights and responsibilities, and how they will be involved in decision-making on changes that could impact on safety.

The review recognises the value and importance of informed residents and of structured engagement via associations and tenant panels. To drive culture change across the sector, it recommends Government funding for organisations that provide advice, guidance and support to residents, landlords and building owners on effective resident involvement and engagement.

A clear and quick escalation and redress route should be available to residents of all tenures to an independent body with access to appropriate knowledge, resources and enforcement powers. This should be open to all, not just residents of HRRBs.

4.4 Competence ([p.73](#))

Professional and accreditation bodies must present a proposal to the Government within one year for a body that would oversee competence requirements and support the delivery of competent people to work on HRRBs.

The review recommends new, demanding expectations on the level of competence of people involved in HRRB building and safety management. The task of raising levels of competence and establishing formal accreditation schemes should be taken on by industry bodies. The report calls on the industry to:

- demonstrate more effective leadership in developing a responsible approach to delivering building safety and integrity
- work with other sectors to learn and translate good practice and implement it within the sector
- develop continuous improvement approaches to competence levels.

The review also includes more specific and pressing requirements to develop competency frameworks for roles that will be crucial to implementing the new regulatory framework, namely building standards inspectors and building safety managers.

4.5 Guidance and monitoring to support building safety ([p.83](#))

The Government should set out regulatory requirements and oversee the regulatory system, but should aim for guidance on meeting building regulations to be owned by industry, while the Government sets out regulatory requirements and provides oversight of the regulatory system. However, the Government should reserve the right to create guidance if industry has not proven willing or able.

The review argues that an outcomes-based approach to regulation and a package of guidance that is owned by industry can facilitate innovation and reflect changes in building practices, techniques and technology. Such an approach requires industry to demonstrate that new technologies, products and materials are safe and in compliance with the outcomes required by the regulations.

To achieve this, the new regulatory framework should require industry and regulators to agree solutions which reduce risk so far as is reasonably practicable. In practice this means that arbitrary targets should be kept to a minimum in the guidance, and a greater emphasis should be placed on informed assessment by competent persons and on demonstration of safety.

In addition, a new structure for validating and assuring guidance, overseeing the performance of the built environment sector, and providing expert advice should be created. There should also be periodic review – at least every five years – of the effectiveness of the overall building regulation system including accountabilities, responsibilities, guidance, and the effectiveness of the regulator.

4.6 Products ([p.91](#))

There needs to be a clearer, more transparent and more effective specification and testing regime for construction products. Clear statements on what systems products can and cannot be used for must also be developed and adhered to, with significantly reduced scope for substitution without full testing.

The review sets a direction of travel for improved product safety, but recognises that significant work is needed to create a comprehensive regime that ensures that all products used in construction are properly tested, certified, labelled and marketed.

Regarding assessments in lieu of tests and the testing of cladding materials, the review recognises that using products which are non-combustible or of limited combustibility is clearly the lower risk option, and would therefore be likely to receive approval by the JCA as a robust layer of protection. Those using the full test route to compliance would be required to demonstrate that potential risks are mitigated by ensuring the system is properly installed and maintained.

The Government has subsequently announced that it will consult on completely banning the use of combustible materials on HRRBs.

The construction products industry should work together to develop and agree a consistent labelling and traceability system, making use of digital technologies that are already available and learning from other sectors.

The duty holder for any given HRRB should ensure that the documentation that supports the performance claims for products and systems used should be maintained throughout the lifecycle of the building, through the golden thread of building information.

4.7 Golden thread building information ([p.101](#))

The Government should mandate a digital by default standard for record keeping for the design, construction and occupation of new HRRBs (including subsequent refurbishments).

Digital records should be in a format which is appropriately open and non-proprietary with proportionate security controls.

The review recognises the importance of robust, accurate and up-to-date information to the successful management of risk and effective operation of HRRBs. It proposes the creation of a digital record to ensure accurate building information is securely added, updated and accessible at points throughout the building life cycle.

While recognising that it will take some time to introduce this digital record for existing buildings, the review argues that there is no reason why this practice cannot start immediately for buildings which are currently in the design and construction phase.

The review recognises that further work is needed to define the information that must be held in the digital record and suggests that the Government works with industry to do this. A non-exhaustive list would be:

- size and height of the building
- full material and manufacture product information
- identification of all safety critical layers of protection
- design intent and construction methodology
- digital data capture of completed buildings (e.g. laser scanning)
- escape and fire compartmentation information
- record of inspections/reviews/consultations.

For existing buildings, a set of minimum building data should be included in the safety case and the Government should work with industry to agree the type of information to be collected and maintained digitally. In addition, duty holders must identify and record where gaps in information exist and set out the strategy for updating the information.

A non-exhaustive list of the types of information that should be recorded for existing buildings are:

- size and height of the building
- structure
- fabric
- escape and fire compartmentation information
- systems in operation
- permanent fixtures and fittings.

The review is clear that responsibility for holding, transferring and updating information throughout the lifecycle of the HRRB should lie with the duty holder. They will be required to share certain elements of it with the JCA as required.

4.8 Procurement and supply ([p.107](#))

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

The review is consistent in its call for culture change and this must be reflected in procurement practices. It argues that procurers must prioritise building safety by commissioning good quality design and using competent people. The chemical industry and civil aviation are identified as other sectors where the need to preserve and protect safety performance has long been an integral part of contract negotiation and agreement.

5. Government response

The Secretary of State for Housing, Communities and Local Government, James Brokenshire, responded to the report in the House of Commons on 17 May 2018. He agreed that the current system is not fit for purpose and requires major reform and culture change, and supports the principles behind the recommendations for a new system

Most notably, James Brokenshire said that the Government is ‘minded to agree’ with calls from many quarters for a ban on the use of combustible cladding systems and will bring forward a consultation on the issue soon.

The Government is committed to bringing forward legislation that delivers meaningful and lasting change and gives residents a much stronger voice in an improved system of fire safety. In the meantime, it is seeking views (by the end of July 2018) from ‘everyone involved’ on how changes in culture and practice can be achieved in the short term.

6. Federation view

In response to the publication of the final report, Federation Chief Executive David Orr said:

“We welcome that the Hackitt Review has called for a root and branch reform of building safety regulations. There are a number of important recommendations for an overhaul in how we keep buildings safe.

“Government must now work swiftly and decisively to create a new, clear and entirely unambiguous system of regulation for high rise buildings. Ministers must inject urgency, capacity and, where necessary, funding to deliver lasting change in how we keep people safe in their homes”.

The final report offers a clear direction of travel and a comprehensive approach to developing a new and more effective regulatory framework. However, there are a number of areas which require considerable work. We will be working with members develop a sector view on the changes needed to develop a system which truly restores trust in the safety of high rise residential buildings, and will present this back to the Government.

We are hosting workshop events for members in [London](#) and [Manchester](#) on 12 and 19 June to support this work. You can also attend a [webinar on 6 June](#) to hear more about the Dame Judith Hackitt’s recommendations.

7. Further information

[Final report of the Independent Review of Building Regulations and Fire Safety](#)

[Government resources on building regulations](#)

[National Housing Federation submission to the Independent Review of Building Regulations and Fire Safety - Phase One October 2017](#)

[National Housing Federation submission to the Independent Review of Building Regulations and Fire Safety - Phase Two March 2018](#)

If you have any further questions please contact [Lucy Grove](#), Grenfell Programme Lead, or [Nick Yandle](#), Policy Leader.