
LABC Response to the Consultation 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.

Yes. LABC agrees to extend the scope to 18m and believe that places where vulnerable people sleep must also be included. There are equal risks where people can be “under the influence” in licensed premises or for other reasons inhibited in their personal ability to escape. Local authority experience is that many operators of such premises will take risks and as such the during occupation safety case regime would be invaluable in continued public safety.

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?

The grouping of regulatory functions within local authorities can be coordinated and brought together centred on building control linking the technical fire risk knowledge from planning through to occupation and onward management. Residents should be able to access a coordinated centre rather than the current ‘broken chain’ approach.

Historically, the guidance was written to allow innovation and flexibility. This means that designers, specifiers and contractors can create and propose solutions that fall between the many gaps and conflicts between the statutory instruments, for example Regulation 18 and the requirement in the RRO for FRAs; the definition of “common parts”. All regulations and guidance should be written using consistent language and in a style that limits options; and innovations should require a very high level of technical proof.

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

Roles and responsibilities need to be clearly identified and defined.



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.

The scope should be extended to cover those buildings with vulnerable occupants where fire incidents are more frequent or where behaviours and occupant incapacity would make risk in the event of fire greater.

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?

LABC does not consider it appropriate to categorise and compare prisons with boarding schools, or care homes with buildings where people go for entertainment. Risk comes in many forms and requires analysis during the planning, design and occupation phases.

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?

All multi-occupancy dormitory buildings have increased risk and need consideration according to the characteristics of users.

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.

All should be deemed ‘high risk’ unless it is possible to make a clear and strong case otherwise. The policy assumption should be that all buildings are within the standard unless they have been proven to be outside.

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?

LABC fully supports the duty holder concept to place responsibility on the person knowingly commissioning or directing different phases of projects. It’s imperative that there is a named Accountable Person taking responsibility for the safety of the building during occupation; if the certification of a building is based on there being a named Accountable Person this should overcome the issues of differing ownerships since there must be one named person with overall responsibility.



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?

Yes.

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

No.

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.

Yes. Building control frequently struggles to identify the person carrying out the work so having a named duty holder as opposed to a legal entity e.g. an off-shore company will ensure accountability. Some buildings have parts, including common parts owned by different entities. To begin and finish and project, the onus must be on those commissioning to self-declare before any design or construction can start. LABC fully supports the recommendation for the identification of clear local accountable designated individuals.

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.

Yes. LABC agrees with the concept. The principles of CDM are logical and would be a good starting point, but there is a need to ensure provisions are fit for purpose when transferred into this framework.

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?

No. However It is entirely appropriate that there should be consideration of fire service access and water supply at this early stage. Planners receive very limited technical training in fire-fighting and fire strategy. Building control teams can provide technical support to planning authorities. B5 (access and facilities for the fire service) is contained in the Building Regulations therefore assessment of the Fire Statement should be made by building control specialists on behalf of the Local Planning Authority.



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.

Yes. There are other key technical issues with proposed designs such as façade materials where the dutyholders will want to have the comfort of a technical assessment at planning stage; this may mean that building control should be used by planning departments to ensure that the contents of B4 are also suitably addressed at this stage. Developers want confidence and clarity in the acceptability of aesthetics from a fire safety point of view and only building control can provide this. This could be facilitated by including Building Control as a statutory consultee at initial Planning Stage as B4 and B5 are current Building Regulation requirements.

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.

Yes. LABC agrees that consideration should be given to proposals for buildings within the near vicinity of buildings in scope. We suggest that planning applicants should have to identify the in scope building within 150m and evidence that their development will not have any detrimental effects. This is a two-way matter. New buildings affect their neighbouring buildings and vice versa.

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

The LPA should incorporate fire technical specialists and housing management specialists to review the Local Plan

- 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.

All buildings within the 'near vicinity' will need to be considered to check that they pose no access risk for the building in scope.

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.

Yes. The case for safety and the duty holder concept must start at the outline planning application and carried through occupation and ongoing management. . Many developments change ownership during or after the Planning application process. LABC believes it is essential to have a designated person from the very start. However the 'Fire Statement' will need assessment by technical specialists outside the current planning regime.



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.

Yes. Consultation with the F&RS on in scope buildings must go via the building safety regulator to maintain the golden thread and national consistency. However it is not possible to consider this fully due to lack of information provided on the intended functions of the building Safety Regulator.

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?

Yes, but only if multi-disciplinary technical input is provided in a coordinated local authority approach. This can apply at outline planning application that is carried through to planning permission and then into detailed design, fire strategy and specification which is passed to the Regulator for release to move into preparation for Gateway 1. There are additional advantages too. LABC estimates that possibly 70% of plans, documents and other records pass through local authorities and it makes sense to direct these into a single digital record from the very start.

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.

Yes, but the information described would need to be incorporated into a phased design approach e.g. approval of the groundwork package. Some projects do not commence in a linear way and groundwork (foundations, drains, water etc.) may often be contracted and even commenced whilst the eventual end owner decides on the building design. It is unlikely to be economically viable to produce a complete detail design of the whole building prior to commencement of work.

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

Yes.

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?

No. Each duty holder needs a responsibility to coordinate with each other in order to sustain the 'golden thread'. However, we believe the Principal Designer should be responsible for ensuring that the design packages are submitted.

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.

Yes absolutely. The regulator needs evidence to show that technical agreement has been achieved. It will be critical to have sufficient manpower to consider applications in a reasonable time using local regulators.



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.

Yes, providing duty holders demonstrate that they are managing the process with evidence of documentation and due regard for the overall process; as an example, the basic means of escape strategy would have to be agreed if it affected (say) the number of staircases, before construction races ahead. This is more likely to happen in consultation with Building Control and F&RS, rather than planners.

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.

Yes, but this needs to be controlled.

'Approval' in this context needs to be defined. Work clearly not in accordance with approved plans or specifications should be subject to remedial action. Similarly work specifically indicated as requiring inspection by the regulator, covered before inspection should be subject to exposure to enable verification. Reasonable justification would be required for removal or uncovering of work to prevent inappropriate use of this power.

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.

This must be proportionate to risk and the ability to correct construction e.g. the installation of dampers. Consideration should be given to appropriate time limitation for remedial work to be completed.

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?

Yes, the existing two month requirement for local authorities is appropriate, but it needs to be based on the receipt of sufficient information appropriate for professionals to make a compliance decision and should run from that time not the time of initial deposit.

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

The timeline may sometimes need to be extended if the information provided isn't sufficient to make a compliance decision. The time frame should not include time when the regulator is waiting for additional information from the dutyholder (i.e. the clock should stop).

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

Yes.



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?

Absolutely yes.

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

This question doesn't make any fire safety sense. Any change or substitution can be highly significant and material changes for, example access or acoustics can have huge impact on fire safety. Defining certain circumstances has potential for 'gaming' the system. Seemingly insignificant changes can have a major impact on building regulation compliance in other areas, for instance decorative finishes can hugely affect those who are visually impaired. All changes need to be verified by a competent professional and lodged in the regulator compliance process.

- Any design change that would impact on the fire strategy or structural design of the building;

See above.

- Changes in use, for all or part of the building;

See above.

- Changes in the number of storeys, number of units, or number of staircase cores (including provision of fire-fighting lifts);

See above.

- Changes to the lines of fire compartmentation (or to the construction used to achieve fire compartmentation);

See above.

- Variations from the design standards being used;

See above.

- Changes to the active/passive fire systems in the building; Other – please specify

See above.

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?

Yes, however this would need to be determined on a case by case basis – the change could indeed be minor and therefore a few days would be appropriate, or major, such as a structural design change or a façade material change which would take much longer to assess. The range of circumstances are almost infinite and shouldn't be restricted by specific definition or by assumptions made about them being 'major' or 'minor'. It is always the context that counts.



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

These depend on the nature of the building, its use, design and the nature of any proposed changes. Setting fixed timings will clash with individual design and technical questions.

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.

Yes, this is fundamental to the principle of dutyholder responsibility for compliance. LABC believes this should have the same significance as in the Scottish system where duty holders sign the final completion document to say they have delivered their duties.

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?

Yes, but this has to be planned and scheduled not just subject to commercial request e.g. sales to leaseholders and needs to be appropriate to the complexity of the building and its construction. Very often developers will put pressure on constructors and regulators in order to meet deadlines and sales targets.

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.

Yes, where appropriate for example where supplied information is insufficient or where phased occupation is requested there may be a need for additional documentation, professional reports, calculations etc.

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.

Yes, this is very important. Partial occupation needs the same amount of safety consideration as the handover of the whole building. Partial occupation must never mean partial safety. So construction duty holders need to be sharing safety responsibility with the accountable person and building control must be actively assessing this. See 2.30 below.

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.

Yes. Otherwise this would undermine the whole gateway principle and put occupants at risk. A proactive review from Building control must also be part of this.

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.

Yes, but subject to a plan and prior agreement. It is high risk and there must be proof that it will be managed safely at all times particularly taking account of the ongoing construction works and the impact that will have at every stage on the occupied parts for the building. There must be agreement from all involved in the regulatory safety oversight process HSE, F&RS, LABC and Housing/Environmental Health.



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

Yes. Including a safety case for work occurring whilst a building is occupied as most refurbishment work occurs when people are still living in their homes.

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?

Yes, it's logical but it needs communication in advance taking account of buildings already in occupation but not fully completed.

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.

Yes how can the BSR expect to certify a building without understanding the risks and management process? This will also encourage dutyholders to follow the Building Safety Concept. Agreement is also necessary from those agencies responsible for enforcement of regulations for occupied buildings.

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?

The local authority must be represented to provide input on existing buildings choosing their most appropriately qualified professional which may require an interdisciplinary approach (LABC for structure and fire, Housing/Environmental Health for tenants etc).

There are proven examples of good practice in other disciplines such as Safety at Sports Grounds.

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.

Yes.

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

Cost must always be secondary to the regulatory system. Getting processes right does not logically equate to additional cost.

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

Yes, however, processes need to be established for identifying/nominating a single person in complex organisations e.g. large public sector organisations or whole buildings with more than one owner.

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.

Yes, multi-use buildings mixing commercial and homes; also large complex organisations especially public service organisations. The identification of an individual should be a statutory requirement notified formally (similar to the Scottish warrant) and there must be synergy with FSO i.e. defining common parts.



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.

Yes. The existing building stock far outweighs new build. Agendas for energy conservation and access will bring these buildings into major retrofit projects as well as maintenance with risks.

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.

Yes. This is fundamental to maintaining accurate and up to date records of responsibilities.

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

Yes. However there needs to be proof that they have expertise, competence and resources.

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

Yes. There will be a short term problem because there is no training or qualification route that exists for this role. They will come from different backgrounds and there are no measures of background, status, salaries etc. The roles of resident liaison and technical building knowledge will need high quality people and they will need much training and support.

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

As a principle, yes.

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.

No opinion as there is insufficient information on the proposed Building Safety Regulator.

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.

No opinion as there is insufficient information on the proposed Building Safety Regulator.

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

No opinion as there is insufficient information on the proposed Building Safety Regulator.

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

No opinion as there is insufficient information on the proposed Building Safety Regulator.



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

No opinion as there is insufficient information on the proposed Building Safety Regulator.

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.

Yes – subject to understanding the operation of the Building Safety Regulator.

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?

Yes – subject to understanding the operation of the Building Safety Regulator.

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.

Yes, but the FSO definition of common parts needs unifying with the ‘whole building concept’. Consideration must also be given to separate commercial concerns in the same building. These will also require relevant certification.

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

Yes.

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

We believe that 5 years is a very long time in the context of changing tenants/leaseholders, maintenance, and repairs. The certificate should be updated following any significant non-routine occurrences which could affect the management or safety of the building.

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?

Yes.

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.

BIM is an effective tool albeit expensive. It would be appropriate for new buildings in the design stage but will place undue costs on portfolio holders of existing buildings.



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.

No opinion.

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.

No opinion.

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.

Yes.

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.

Yes.

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.

Yes. The register should include information on decisions made by the Building Safety Regulator together with the reasoning for acceptance/rejection where this is not obvious.

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.

No.

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.

No.

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.

Yes.



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 and (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?

Yes.

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?

Yes.

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.

Yes.

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

No.

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.

Yes. Where the design/specification is seen to be at odds with safety principles and where feedback from consultees (building control and FRS) isn't being acted upon.

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.

Yes, whistle-blowing has been shown to work in other areas of public safety.

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.

Yes it's vital that industry and users of buildings know and are assured that key actors in the safety of buildings are proven to be competent and remain so and are subject to independent scrutiny, not simply a peer review.

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.

Yes, education of the construction sector and users of buildings is imperative to a safe built environment.



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.

Yes, it's important that all users of buildings and those that work on them are aware of the requirements for safe use of buildings.

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.

Yes. Dutyholder roles and the responsibility for compliance with building regulations must be applied to all building work. The responsibility for compliance under the Building Act 1984 currently refers to 'the person carrying out the work'. Local Authorities find this extremely difficult to enforce because the 'person' isn't defined. It could be the builder / contractor, the designer / agent or the owner / client. It can result in the uninformed and innocent client (or homeowner) being held responsible for non-compliant work that has been carried out by the builder. If there were clear duties enforcement action could be made against the appropriate person and they would all have clear responsibilities.



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.

No opinion from a building control perspective.

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.

No opinion.

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?

- Relative,
- Carer,
- Person with Lasting Power of Attorney,
- Court-appointed Deputy,
- Other (please specify).

No opinion.

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

No opinion.

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

No opinion.

Q. 5.6. Do you think there should be a new requirement on residents of buildings in scope to cooperate with the accountable person (and the building safety manager) to allow them to fulfil their duties in the new regime? Please support your view.

No opinion from a building control perspective.

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

No opinion from a building control perspective.



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?

No opinion from a building control perspective.

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.

No opinion from a building control perspective.

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?

No opinion from a building control perspective.

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.

No opinion from a building control perspective.



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.

Yes after effective transition (implementation).

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.

No. The inspecting body and enforcing body needs to be one and the same. There is no such thing as “hard” or “soft” enforcement; enforcement is a process of progression from one stage to another. This cannot be split between bodies without damaging the evidence chain.

It remains to be seen if the oversight functions ensure buildings are safe. The probable outcome we predict is that a two-tier system will emerge and the proven downward spiral (noted by industry bodies e.g. ASFP, APPGs and Hackitt and Insurers) will accelerate in out of scope buildings that will be seen as a ‘lesser’ type of work. Every year hundreds of people die or suffer life changing injuries in fires in out of scope buildings.

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.

No, there is huge confusion because officials lack technical and statutory knowledge and are trying to fit square pegs into round holes. The HSE lacks detailed construction knowledge in sufficient depth to understand fire safety strategy and has no resource. LABC can provide this knowledge.

The political pressure (doctrine) to include commercial private interests is causing confusion and holding back speed of change. It is not described in this consultation even though officials are already referring to the new “Regulator” (not the JCA) and competition for inspections ie choice of building control regulator. This consultation is badly flawed for not revealing the policy intent to abandon Dame Judith Hackitt’s principles.

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.

Yes. LABC has been an integral part of this process and supports the proposals of the relevant groups.

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.

Yes, LABC has been an integral part of the IRG and supports the proposal for an industry led committee to oversee competence. We believe the scope of the requirement for competency should, over time be expanded to cover the whole construction industry and construction work.



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

Yes. This is work that has only just started and there are many types of work undertaken on the wider in scope buildings that need to be considered for inclusion in the framework e.g. internal alterations and materials introduced into homes.

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.

Yes. However the work needs to be handed over to expert regulators for knowledgeable development. Officials have insufficient expertise in the field to lead this.

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.

A partial 'yes' because it is hard to define all components in a building element and the range of alternatives. Current issues being debated on Regulation 7 and non-combustible facades reveals how unspecified sub-components can raise compliance confusion later on. This requires real technical expertise by people outside the departmental team. The problem is that the inventory approach will keep on expanding until it threatens efficient working in the industry. System and sub-system components should be recognised in testing and certification.

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.

Yes, but qualified technical practitioners need to be included in the regime to bring a practical view e.g. where no rated or certified alternatives exist e.g. cavity trays. Last December's regulatory changes were badly flawed because building control practitioners were not invited to offer opinion. As a consequence some product specifications are permanently outside the regulations even though they are an indispensable element in the whole.

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

As above.

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.

Yes, but it requires more linking between certification 'scientists' and site aware technical practitioners. This would introduce factors like the practicality of installation, fittings like spacers that may not be tested in a perfect lab test but would be required in the reality on site.

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

As above.



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

We don't understand why separation has been considered. There is a danger in separating this from the Building Safety Regulator. The interests of global manufacturers (and their power) may not meet national and regional needs. Actual construction needs must be linked to product supply.

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.

Yes.

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.

Yes.

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.

LABC believes this should be closely linked with or under the Building Regulator.

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

The current debate is not focusing on product longevity and maintainability. Certification to the standard is certified 'on the day; design, specification and procurement needs to be linked to final choice.

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?

No opinion.

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

Yes. TPS schemes should be focused on activities directly linked to fire and life safety installations e.g. fire cavity barriers, fire doors, fire dampers and collars, fire partitions etc. TPS is only relevant on the date of issue particularly for construction practice e.g. fire stopping and cavity barriers. Subsequent trades may damage or remove elements rendering the certification ineffective but responsible persons may regard the certification as a 'guarantee' that the work is complete, satisfactory and compliant.

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

Yes, it is essential that such schemes have recognised standards and are accountable for installation processes.



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

As above.

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

Probably, but commercial interests are missing the point fire life safety has to be sacrosanct.



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?

No. There are alternative models and the national regulator will not be involved on site with granular detail. Local government models have a better focus in creating processes that can lead to effective enforcement which is focused on getting work put right so that projects continue safely. This experience should be taken on-board. This requires local records on specific detailed issues that need ongoing attention either to ensure effective remedial work and onward compliance, or providing the evidence for enforcement. In turn it needs continuity in personnel and record keeping.

Q. 9.2. Do you agree we should introduce criminal offences for:

an accountable person failing to register a building;

an accountable person or building safety manager failing to comply with building safety conditions;

dutyholders carrying out work without the necessary gateway permission?

Yes.

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.

Yes.

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.

Statutory obligations are not service obligations and should not be inhibited.

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.

Yes, when identified defects are not being rectified. There is no need for subjective wording such as “serious”. Any defect affecting life safety performance is “serious”.

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?

Yes. In a sense all time limits should be removed. Anything wrong in buildings need to be addressed under one set of powers.

Time limits should not restrict effective ‘enforcement’ which may culminate in prosecution. This needs to be considered in association with transfer of information from one duty holder to another and those who may inadvertently ‘inherit’ responsibility for a building defect.