



Hackitt Report: **Review and Recommendations**

Background

Following investigation and research into the Grenfell Fire on 14th June 2017 The Independent Review of Building Regulations and Fire Safety: Final Report was issued on the 17th May 2018. To view the full report see:

<https://www.gov.uk/government/publications/independent-review-of-building-regulations-and-fire-safety-final-report>.

The purpose of the 156-page Hackitt Report is to make recommendations to the Secretary of State for Housing, Communities and Local Government (MHCLG) and Parliament on changes that should take place to the building regulations and fire safety systems to ensure higher risk residential buildings (HRRBs) are safe throughout the life cycle of the building.

The Report has no statutory status and will come under government scrutiny by a dedicated MHCLG implementation Team with parallel consultation with stakeholders leading to the issuing of a white paper expected by the end of 2018.

Key Message

The Grenfell and subsequent fires have highlighted cultural flaws in the current regulatory system underpinned by misunderstood and misinterpreted regulations and guidance, motivation to do things as quickly and cheaply as possible, a lack of roles and responsibilities clarity and inadequate regulatory oversight and enforcement tools.

Key Terms

- **HRRBs** – Multi-occupancy Higher Risk Residential Buildings of 10 or more storeys in height
- **JCA** – Joint Competent Authority. The proposed new combined regulatory oversight body for HRRBs comprising the H&SE, Local Authority Building Standards and fire and rescue authorities
- **Local Authority Building Standards** – rebadged local authority building control
- **Gateway Points** – Three key stages in the building life-cycle of which the dutyholder has to satisfy the JCA that plans are robust, risk managed and safety of as built building
- **Dutyholders** – Key roles that are assigned specific responsibilities at particular stages of the building life cycle
- **Golden Thread** – Good quality safety information put in place by the client for dutyholder and other stakeholder oversight and including digital records and the Fire and Emergency File
- **Safety Case file** – a regular case that indicates to the JCA that the dutyholder for an HRRB are discharging their responsibilities. The case must identify hazards and describe how risks are controlled and describe the safety management system in place
- **Resident engagement strategy** – this should outline how the dutyholder will share information with residents and how they will inform them of their rights

and responsibilities and how they involve residents in decision making on changes to the building that could impact on safety

- **LPA** – Local Planning Authority
- **FRA** – Fire and Rescue Authority
- **BCB`s** – Building Control Bodies

Parameters and principles of a new regulatory framework

Buildings within scope of the new regulatory framework

Following analysis of the risks highlighted within the Approved Documents supporting the Building Regulations and potential impacts associated with a fire, the review considers the need for an intensive regulatory framework for new and existing high-rise residential and mixed-use properties which are 10 storeys high or more. There are estimated 2,000 to 3,000 existing HRRBs in England. The review makes multiple recommendations to extend the scope to other high risk residential and institutional buildings.

RECOMMENDATION: The New regulatory framework should apply to HRRBs of 10 or more storeys high, identified by the LPA and notified to regulator. Existing buildings to be identified by other means.

Regulatory oversight of HRRBs

At present there are several regulators involved throughout the life cycle of an HRRB under differing legislation, including LA's (building control & environmental health), A.I's, FRA's and the HSE. HRRBs should be subject to closer more robust and expert scrutiny to ensure safety in a more effective way.

Comparisons are drawn with the HSE delivery model in highlighting and enforcing the role of the dutyholder and aligning risk and effective deliverables through a new joint competent authority (JCA).

The JCA combines the expertise and knowledge of Local Authority Building Standards and FRAs with the addition of the HSE. The JCA would operate on a full cost recovery basis. The JCA model will be subject to more detailed work including local or regional hierarchy.

The key responsibilities of the JCA include:

- Creating and maintaining a database of all HRRBs and the dutyholders for those buildings
- Ensuring dutyholders focus on mitigation safety risks through Gateway Point interventions and assessing dutyholder oversight and production of golden thread information
- Ensuring key dutyholders focus on reducing ongoing building safety risks through periodic safety case reviews and requiring building improvements
- Handling and assessing immediate building safety concerns
- Requesting the testing of construction products
- Requesting annual reports from product testing houses
- Helping a new proposed government body to validate and assure guidance produced by industry meets outcomes- based goals of the Building Regulations

RECOMMENDATION: Government to set up a full cost recovery JCA comprising of Local Authority Building Standards, fire and rescue service and

Health and Safety Executive to help ensure life safety across entire life cycle of HRRBs.

A systems approach to risk management

The current Building Regulations and supporting 20 Approved Documents can lead to siloed design and construction requirements aligned with trades where changes can be made to one aspect of a building without consideration of any secondary effect. The building should be considered as a single coherent system leading to possible engineered solutions.

The review recommends that Government sets the regulatory framework for the full lifecycle of new and existing buildings whilst allowing the industry freedom to develop the detail that sits underneath.

RECOMMENDATION: Regulatory framework should consider HRRBs as single holistic entity with a new Approved Document.

An outcomes-based approach to building safety

The framework for setting out the building standards that HRRBs need to meet will remain outcome-based rather than a prescriptive based approach. The perception that the current outcome system is prescriptive can lead to `gaming` and an inability by Government to adapt and update as new construction technologies and techniques come online. The outcomes model is reliant on appropriate competencies.

Robust incident-reporting, whistleblowing and use of data

The review recognises a system of reporting structural safety issues this needs extending to enable those to report to the JCA fire safety issues during the construction and occupancy of a HRRB. Data should be collected to inform future policy.

RECOMMENDATION: Mandatory occurrence reporting to JCA akin to Civil Aviation Authority should be set up with publicly available data for HRRBs.

Design, construction and refurbishment

Creating empowered and responsible dutyholders

Roles and responsibilities for ensuring building work meets the requirements of the Building Regulations and legal accountability is unclear in a fragmented industry. Roles and responsibilities need to be clarified for those shaping and overseeing the procurement, design and construction of buildings.

The Dutyholder and other key roles and responsibilities for prioritising building safety are the same as those identified in the CDM Regulations.

Key to dutyholder oversight of building safety throughout the life cycle of a building is the provision of the 'golden thread' of key information products.

RECOMMENDATION: Government should set up key roles akin to CDM roles for HBBRs.

RECOMMENDATION: Government should set responsibilities to Clients, Principle Designers and Principle Contractors.

RECOMMENDATION: Government should mandate creation and maintenance of minimum key information - Digital Record, Fire & Emergency File, Full Plans and Construction Control Plan.

RECOMMENDATION: Government should consider applying the above recommendations to other multi-occupancy and institutional buildings.

Strengthening regulatory oversight of dutyholders

The review recognises structural and cultural weaknesses in current building control providers and FRAs where these are involved at specific points at the planning, design sign off and completion stages in the design and construction process. The solution is to formalise these three specific points into Gateways.

RECOMMENDATION: Gateway Point 1 - LPA should consult JCA by law for HRRBs and buildings in close proximity.

RECOMMENDATION: Gateway Point 2 Full Plans Approval - JCA to carry out thorough assessment of plans and be assured dutyholders are in place to give permission to start on site.

RECOMMENDATION: Gateway Point 3: Completion Cert Process – JCA to carry out thorough test of as built construction and receive paper trail of Principle Contractor delivery of design intent, any changes made and evidence of golden thread of information. The building owner must have carried out a pre-occupation risk assessment and resident engagement strategy.

RECOMMENDATION: Government should consider applying Gateways 2 and 3 to other multi-occupancy and institutional buildings.

Wider changes to support dutyholders and regulators

Additional challenges exist of ensuring a clear process for controlling, recording or reviewing changes agreed during the construction process and ensuring the work carried out by competent persons under CPS on HRRBs are monitored by the JCA.

RECOMMENDATION: There should be a statutory process for the notification of major (JCA notifiable) and minor changes to design. Government should consider this recommendation to other multi-occupancy and institutional buildings.

RECOMMENDATION: Work carried out on an HRRBs by persons under a CPS should be overseen by the JCA.

Models to underpin regulatory effectiveness

The person carrying out the work can choose an A.I.s or LA to provide BC services. Key concerns of this system are:

- There are incentives to attract business by offering minimal compliance interventions or supportive interpretations to contractors
- Surveyors are so integrated with design and construction teams that the regulatory role can be blurred with that of a verifier
- There are disincentives for BCB`s to use enforcement for fear of losing long term business
- Conflicts of interest can exist where BCB`s offer other services
- The differences in statutory and non-statutory processes add to complexity. For example A.I`s handing projects back to LA`s to take enforcement action

The review seeks complete independence of regulatory control with greater strength to enforcement through the use of the JCA.

A.I`s are left in a position with HRRB projects to provide accredited consultancy and verification services to dutyholders to help them meet their new responsibilities and navigate the 3 Gateway Points or provide extra capacity / expertise to the JCA but not both.

Local Authority Building Control should be newly branded as Local Authority Building Standards given their refocused role in overseeing standards and dutyholders under the JCA Framework.

RECOMMENDATION:

- A. It should not be possible for a client to choose a regulator**
- B. There should be a single regulatory route provided by Local Authority Building Control**

- C. A. I's should provide accredited verification and consultancy services to dutyholders or expand LABC expertise / capacity whilst working under LABC rules (not both)
- D. Conflict of interest must be avoided including with FA
- E. Government should consider applying recommendations A, B & C to other multi-occupancy and institutional buildings and D to all buildings
- F. Local Authority Building Control should be rebadged as Local Building Standards to reflect new role

RECOMMENDATION: FA as part of JCA should engage more and have in place dispute resolution measures. Government should consider this recommendation to other multi-occupancy and institutional buildings.

An enforcement regime that properly incentivises compliance

The current sanctions and enforcement regime exercised predominantly through informal enforcement doesn't work. Formal enforcement has fallen by 75% in the last 10 years with minimal fines and non-recovered LA legal fees leading to reluctance by some LA legal departments to take action. There needs to be a range of enforcement and sanction methods to secure compliance with failure to comply by dutyholders resulting in criminal offences as seen under H&S legislation.

RECOMMENDATION: A sanction and enforcement regime akin to H&S at Work Act should be implemented:

- A. JCA to be given improvement and prohibition (Stop Notices) powers
- B. Time limits for prosecutions should be extended for major deficiencies to 5 or 6 years
- C. JCA fees should cover potential enforcement costs
- D. The above powers should be available for all non-compliant work

Refurbishment

The key recommendations in Chapter 2 should also apply to refurbishment of HRRBs. The current regulatory control of work to existing buildings is complex and confusing. Safety Case Reviews as described in Chapter 3 place the emphasis on the duty holder to identify to the JCA and themselves hazards and risks and how these are controlled.

RECOMMENDATION: Where refurbishment takes place in an HRRB a full safety case review should take place.

Occupation and Maintenance

Creating a clear, identifiable dutyholder

A clear UK based person or entity should be responsible and accountable as the senior dutyholder for fire and structural safety of an HRRB. This is likely to be the building owner or superior landlord.

The dutyholder must nominate a building safety manager with the expertise to discharge the dutyholder's responsibilities and a point of contact for residents.

RECOMMENDATION: Responsibility for HRRB safety must be held by a senior dutyholder – building owner or superior landlord. The JCA and residents must know the contacts details and the dutyholder must nominate a building safety manager.

Dutyholder powers and responsibilities

FRA's regularly issue notices on high-rise properties for problems such as inadequate risk assessments, poor compartmentation and lack of suitable facilities for firefighting.

The step change is to place greater demands on the new dutyholder to manage building safety effectively by building on the principles or fire risk assessments as laid down in the Fire Safety Order with close resident engagement.

Fire risk assessments are often seen as tick box exercises carried out by those with limited competency and the review proposes the concept of enhancement via a fire safety case prepared by a competent person and overseen by the JCA.

The fire safety case consists of:

- Information on the building management system including records of maintenance, inspection and testing undertaken and evidence of competence of those carrying out the work
- A resident engagement strategy
- The maintained and updated Fire and Emergency File and Digital Record
- Copies of any fire safety inspections carried out by the duty holder and regulator
- A copy of the latest annual fire risk assessment and evidence of any actions taken

RECOMMENDATION: HRRBs Dutyholders responsibilities should be:

- A. Take safety precautions**
- B. Ensure information management systems are in place including for safety case file**
- C. Ensure that there is a resident engagement strategy**
- D. Handover all relevant information to a new duty holder when a building changes hands**

RECOMMENDATION: The Dutyholder should provide to the JCA a regular safety case dependent on risk.

RECOMMENDATION: The Dutyholder must ensure a fire risk assessment has been undertaken by someone with relevant skills, knowledge and experience. Any findings of the assessment should be actioned in a timely manner and reviewed at least annually until a fire safety case is in place. Government should consider this recommendation for other multi-occupancy and institutional buildings.

The JCA role in occupation and maintenance

Having a clear dutyholder for an HRRB will provide a holistic focus on safety and enforcement needs to be equally clear. The JCA should have the power to ensure the dutyholder fully discharges their duties during the maintenance and occupation phase. The JCA can assess this through:

- Checking fire safety cases
- Inspecting across all areas of the building where necessary by building standards inspectors
- Imposing Building Improvement Notices and sanctions on dutyholders

RECOMMENDATION: The JCA should regulate across all parts of the HRRB and have the following roles in the occupation and maintenance phase:

- A. Hold a register of dutyholders**
- B. Ensure dutyholders meet obligations through effective inspection, assessment and enforcement**
- C. Deal with immediate risk and have powers of access to inspect the whole building**

RECOMMENDATION: Environmental Health Officers should raise any fire and structural safety concerns to the JCA. For other multioccupancy residential buildings LA`s and FA`s should work more closely together.

RECOMMENDATION: There should be strong sanctions and incentives to drive compliance by dutyholders. These include education, statutory notices, fines and criminal sanctions.

Residents' Voice

Reassurance

Residents should have access to dutyholder proactively provided summary safety information based around the fire safety case as a step towards involvement. Buildings should be given a safety rating to allow benchmarking and incentivise the dutyholder to quickly bring about improvements. The dutyholder should also notify residents of any notices issued by the JCA.

Residents should also have access to more detailed historical information provided this does not compromise security.

Good landlord / resident engagement practice especially seen with social landlords should be reproduced across all sectors to help residents feel involved and create trust. Residents associations and tenant panels can also play a major part so that engagement become the norm.

RECOMMENDATION: A HRRB dutyholder should have a statutory duty to provide information to residents that supports their understanding of protection. Government should consider this recommendation for other multi-occupancy and institutional buildings.

RECOMMENDATION: Residents of HRRBs should have access to FRA, safety case documentation and other safety information. Government should consider this recommendation for other multi-occupancy and institutional buildings.

RECOMMENDATION: The dutyholder should have a resident engagement strategy in place. Government should consider this recommendation for other multi-occupancy and institutional buildings. This should not be limited to HRRBs.

RECOMMENDATION: Government should provide funding for organisations working to provide advice, guidance and support to residents, landlords and building owners on effective resident involvement and engagement. This should not be limited to HRRBs.

Recourse

The first port of call for residents with concerns on building safety should be the building safety manager and dutyholder who should provide clear details of internal process for raising concerns. Where matters are not resolved the residents should have a route of escalation and redress to an independent body similar to the ombudsman system.

RECOMMENDATION: Where internal processes have been exhausted residents should have a clear route to an independent body with knowledge and enforcement powers. This should not be restricted to HRRBs.

Residents' responsibilities

Residents have a responsibility to play in identifying and reporting issues that may impact on the safety of the building. In addition, they have a responsibility towards their neighbours to ensure their actions do not compromise fire safety.

Residents should cooperate with the dutyholder to ensure essential safety checks are carried out. Dutyholders should keep residents fully informed.

RECOMMENDATION: The dutyholder should provide residents with information about their obligations. Government should consider this recommendation for other multi-occupancy and institutional buildings.

Competence

Establishing effective leadership

Professional bodies need to demonstrate and deliver strong leadership to drive competence and learn from other sectors through holistic collaboration. Bodies should also exercise effective powers to enforce standards.

RECOMMENDATION: The construction and life safety sectors should demonstrate more effective leadership in developing building safety and integrity by working with other sectors to learn, translate and implement good practice and develop continuous improvement approached to competence.

Developing a competence framework for HRRBs

The minimum list of key professionals essential to the safety of HRRBs are:

- Engineers
- Those installing and maintaining fire safety systems
- Fire engineers
- Fire risk assessors
- Fire safety enforcing officers
- Building control inspectors

Consideration should also be applied to designers and constructors and other specialists.

The review considers a competence framework should be overseen by a single body to ensure periodic recording, delivery and consistency of competent people and organisations.

RECOMMENDATION: The professional and accreditation bodies should continue response made after interim report to make a coherent proposal to government within 1 year to cover as a minimum the role and remit of an overarching body to provide oversight of competence requirements and support the delivery of competent people working on HRRBs or other agreed buildings including:

- Professional bodies, professions and disciplines;
- Membership and governance;
- Role in receiving, agreeing and monitoring individual competence frameworks, accreditation and reaccreditations.
- Establishing a method for demonstrating competence
- Balancing construction and fire safety skills

The body should provide quarterly reporting to government which in turn should establish a body to ensure competence governance is appropriate.

The competence of the regulator and dutyholder

Under the new JCA framework the competence required of Building Standards Inspectors whether private or public sector will differ and will involve skills at challenging clients, designers and contractors about their proposals.

The review recognises the work carried out by LABC and the ACAI to drive competence and requests this continues.

RECOMMENDATION: Relevant parties should work together to ensure new common approach and competence meets new regulatory framework for building standards and A.I.'s. and should be considered those working on all types of multi-occupancy and institutional buildings.

RECOMMENDATION: Relevant parties should work together to ensure a robust, comprehensive and coherent system for the competence requirements for the role and responsibilities of the building safety manager and how this person can introduce fire safety training to residents.

Guidance and Monitoring to Support Building Safety

Ownership of guidance to support an outcome-based approach

The purpose of regulation is to ensure clear outcomes are set and behaviours adopted to ensure buildings are safe and fit for purpose. Guidance supports this. An outcome-based approach owned by industry can facilitate innovation and changes in practices, techniques and technology.

RECOMMENDATION: B Regs guidance to be owned by industry with Government setting out regulatory requirements and stepping in to provide guidance if industry unable to do so.

Governance roles within government

The Building Regulations Advisory Committee (BRAC) should be replaced by a new structure of advice and assurance. There are four roles that need to be performed:

1. Validation and assurance of industry guidance
2. Reviewing the ongoing performance of the building environment sector
3. Engineering advice to government
4. Periodic review of the effectiveness of the overall building regulation system

RECOMMENDATION: Government to validate and assure guidance, oversee performance and provide expert advice. There should be a min 5-year periodic review of the overall effectiveness of the B Regs system.

Promoting a system approach through restructured guidance

The overarching approach to delivering effective regulations and guidance is consideration of buildings as a system and documentation should support this by being user friendly for different user groups and restructured.

RECOMMENDATION: Government to take forward working group recommendations regarding guidance on:

- Clearer language and formatting
- Multiple points of entry by different users / work types
- Prioritisation of fire and structural safety within a holistic approach

Products

Establishing a more transparent testing regime

Government have commissioned the BSI to produce a new British Standard that will look specifically at when and how assessments in lieu of tests can be used with respect to BS 8414 Fire Performance of External Cladding test results.

There remains the need for greater transparency in the testing regime of products critical to the safety of HRRBs with weaknesses in the current pass / fail tests and lack of clarity for those specify the products.

The products should be subject to periodic three-year re-tests to ensure quality and integrity with market surveillance at a national level by a new body. It is likely that new testing capacity will be required.

RECOMMENDATION: Clearer, more transparent and effective specification, testing and reporting regime of products to be developed. To include products when put together as part of a system. Clarity to be provided on what can and can't be used and reduced scope on product substitution without further testing. In meantime manufacturers should adhere to current limitations.

RECOMMENDATION: Manufacturers to retest products critical to HRRBs safety with also 3rd party certification. Testing frequency to increase including those used in systems. JCA should drive reactive testing with issues raised. Additional testing houses to be established and certified with annual reporting of tests carried out.

Standards

The Approved Documents refer to over additional 500 standards many of which refer to the testing of products. These should be simplified and continuously improved by stakeholders.

RECOMMENDATION: A simpler more streamlined set of standards to be developed relating to testing of products in HRRBs.

RECOMMENDATION: Test methods and standards should be maintained under a periodic review process.

Product labelling and traceability

The identification of products whilst on site is problematic. Leading to potentially inappropriate products being installed. Under the new regulatory framework all products will be as traceable with permanent markings as seen in other industries such as car manufacturing.

The declaration of products (DoP) through the Construction Products Regulation provides information on the performance of products and with smart CE marking this

information can be harmonised in a digital format. The review considers the use of digital capture and storage would enable validated handover of information.

RECOMMENDATION: Digital capture and storage would enable validated handover of information.

Creating a more effective market surveillance regime

At national level there is a case for robust and effective enforcement, complaints investigation and market surveillance within a greater resourced regime. Government should consider extending the newly formed Office for Product Safety and Standards (OPSS) to cover construction products.

RECOMMENDATION: Government to ensure more effective national surveillance, enforcement and complaint investigation of products.

Golden Thread of Building Information

The digital record across the building lifecycle

Unanimous concern was raised about the ineffective operation of the rules around the creation, maintenance and handover of building and fire safety information. This causes the following issues:

- Lack of clarity regarding changes made between the original design and completion
- Building owners not having the required up-to-date safety information to manage the building
- When refurbishing a building it will be difficult to ascertain what effect any changes may have on building safety

There is a need for a `golden thread` for all HRRBs with key products of the Fire and Emergency File (FEF) and digital record based around the BIM approach.

RECOMMENDATION: Government to mandate a digital standard of record keeping for the design, construction and under occupancy including refurbishments.

RECOMMENDATION: Government to work with industry to define what digital information should be held on HRRBs.

Existing buildings

A minimum set of building data for existing buildings should be included in the safety case to include items such as size and height, structure, fabric and systems in operation.

RECOMMENDATION: Government to work with industry to define what building management digital information should be held on HRRBs. Dutyholders must highlight gaps in the information and the strategy for updating this information.

Information accountability

Operators within the record keeping system are to practice in a competent manner so that dutyholders can use the information within the safety case to report to the JCA throughout the lifecycle of the building.

RECOMMENDATION: Dutyholders must hold, transfer and update information throughout the life cycle of the HRRB and be provided to the JCA here required.

Procurement and Supply

Procurement relationships

The way in which procurement is managed can in some instances reduce the likelihood that the building will be safe through a focus on low costs rather than best value. The contracting process determines the relationships, competencies and processes and it is important that procurement drives collaborative partnerships, correct behaviours and accountabilities.

Tender process and contract terms

Some requirements within contracts to push technical and contractual risk down to subcontractors can lead to risks being mishandling and inefficiencies. Payment terms can drive poor behaviours such as substituting materials based on price.

The invitation to tender and bid process must prioritise building safety and effectively tested.

RECOMMENDATION: Principle clients and contractors should devise contracts that specifically mention that safety measures must not be compromised for cost cutting. Government should consider this recommendation for other multi-occupancy and institutional buildings.

RECOMMENDATION: For HRRBs tenders should set out proposed solution to produce safe building outcomes. Tender reviews to verify this. Government should consider this recommendation for other multi-occupancy and institutional buildings.

Retention and transfer of contractual information

Technical and commercial assumptions and formal agreements can influence safety of the building. It is important that all contractual information is retained by the dutyholder.

RECOMMENDATION: The information in the contracting documents should be included in the digital record.

International Examples

The challenges highlighted in the review are not limited to the UK. International evidence points towards a need for wider cultural change based on outcomes-based frameworks with intelligent clients interacting with intelligent regulators driven by leadership from government and the industry.

Lessons should be learned and good practice followed from other countries and new standards set internationally through the Regulatory Collaboration Committee (IRCC).

RECOMMENDATION: The Government should re-join the inter-jurisdictional Regulatory Collaboration Committee (IRCC).

For more information

The Association of Consultant Approved Inspectors (ACAI) of which we influence; has strong views on the Hackitt Report and will be summarised in a separate document.

Recommendations contained in the Hackitt Report are subject to possible alteration in the coming months. Stroma is committed to maintaining a close watch on these developments and we will inform our clients accordingly.

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