

## **RIBA response to the final report of the Independent Review of Building Regulations and Fire Safety – Building a Safer Future**

The Royal Institute of British Architects (RIBA) is a global professional membership body that serves its members and society in order to deliver better buildings and places, stronger communities and a sustainable environment. We provide the standards, training, support and recognition that put our members – in the UK and overseas – at the peak of their profession.

The RIBA's Expert Advisory Group (EAG) on Fire Safety was established by RIBA Council following the tragedy at Grenfell Tower. Having listened to extensive expert evidence, the EAG developed the RIBA' submission to the Independent Review of Building Regulations and Fire Safety, and has prepared this response to the final report of the Review.

The RIBA very much welcomes a number of the Review's findings, including the proposal to establish a Joint Competent Authority (JCA), bringing in the expertise of the HSE and the fire brigades, to oversee a new fire safety regulatory framework for multiple occupancy higher risk residential buildings (HRRBs), and we look forward to working with Government and the construction industry in the implementation of measures to enhance the effectiveness of the regulatory regime and improve the culture of the construction industry in relation to assuring quality and life safety.

However, the RIBA is concerned by the absence of the simple, clear baseline prescriptive standards that we have consistently maintained would deliver much-needed clarity for the construction industry and, most importantly, provide protection for the public. There is no recommendation in the Review to ban combustible materials in external wall construction on high rise buildings and extend the use of sprinklers, nor for the provision of alternative means of escape, and desktop studies are retained as "assessments in lieu of test." The relaxation of baseline requirements and an over reliance on fire engineering approaches, including desktop studies, has been a key factor that has led to the regulatory and systemic failures that have prompted the Independent Review. It is essential that as soon as practically possible a radical overhaul of the Approved Document guidance is issued to include clear baseline prescriptive requirements. Guidance needs to be clear with no room for ambiguity.

The Review's recommendations relate only to residential buildings above 10 storeys, although it does state that the remit of the new fire safety regulatory framework could be widened to encompass a greater range of higher risk buildings in the future, something the RIBA would strongly support. We are concerned that narrowing the focus of regulatory and procurement reform to the fire safety of residential buildings above 10 storeys will not address risks to life in other higher risk buildings including schools, hotels and hostels, hospitals, care homes and low and medium-rise residential buildings.

Part 1 of this response summaries the headline recommendations the RIBA originally made to the Review. In Part 2 we set out our detailed responses and recommendations in relation to the findings set out in each of the Chapters of the final report of the Review.

### **Part 1: Summary of Headline Recommendations made by the RIBA to the Review**

***In our submission to the Review the RIBA made the following core recommendations for action:***

- (i) Extension of the CDM Regulations 2015 to ensure the life safety of building users, including fire safety, through statutory duties of client, principal designer and principal contractor duty holders with appropriate skills, knowledge and experience.***
- (ii) Strengthened building regulations for all buildings, not just those classified as complex and/or higher risk.***
- (iii) Reintroduction of mandatory Fire Certificates for designated premises, prior to occupation, renewed annually.***
- (iv) Baseline prescriptive regulatory requirements for all aspects of building and life safety, not just fire safety, to include:***
  - **Non-combustible external wall construction** - external wall construction for refurbished or new buildings with a storey 18m or more above ground to be comprised of non-combustible (European class A1) materials only.
  - **More than one means of escape** - In all new multiple occupancy residential buildings, a requirement for at least two staircases offering alternative means of escape, where the top floor is more than 11m above ground level or the top floor is more than three storeys above the ground level storey (as required for commercial buildings in ADB - Vol 2: B1 Section 4).
  - **Sprinklers** - retro-fitting of sprinklers / automatic fire suppression systems and centrally addressable fire alarm systems to existing residential buildings above 18m from ground level as “consequential improvements” where a building is subject to 'material alterations.'
  - **Mandatory requirement** for sprinklers/automatic fire suppression systems and addressable central fire alarms in all new and converted residential buildings.

## **Part 2: The RIBA's Detailed Response to the Final Report**

### **Parameters and Principles of a New Regulatory Framework**

#### ***1. A new regulatory system for Higher Risk Residential Buildings (HRRBs)***

The proposals put forward for a new regulatory regime are sound in principle. In particular greater involvement of the Fire and Rescue Authorities (FRAs) and the Health and Safety Executive (HSE) seems a positive addition of expertise and oversight. It will be necessary to develop the proposals with cross industry participation in order to clarify the detail of how the new system will operate. Is the proposed Joint Competent Authority (JCA) a new body or a collaboration between existing bodies? How will it be governed and derive its authority? Is it a national body or a series of regional or local organisations?

The proposed system relates only to HRRBs which are ten or more storeys high, but the Review does suggest that the system should be applied to a wider range of higher risk buildings. The Cole report which revealed structural and fire safety failures in a series of schools in Edinburgh is one example of the growing body of evidence that systemic failings go much further than residential buildings of ten or more storeys in height, and the RIBA would wish to see any new regulatory system for higher risk buildings encompass all buildings above 18m (six or more storeys) in height, other buildings where people sleep, including hospitals, care homes, prisons, and halls of residence, and schools and other buildings accommodating children.

#### ***2. A systems approach to risk management***

An initial framework for a systems approach to risk management is advocated in the Review. It is apparent in the Review that contemporary procurement processes have led to a fragmented construction industry, with blurred lines of responsibility and risk largely pushed down the supply chain. This section implies the need for a coordinated industry input in order to create a template for an integrated approach to risk management. The proposed Fire Safety Overlay to the RIBA Plan of Work could make a significant contribution to achieving this aim.

#### ***3. An outcomes-based approach to building safety***

The Review is strong in its championing of an outcomes-based approach, whilst recognising that such an approach relies on robust competence regimes with appropriate levels of assurance and that this involves those with the necessary levels of skills, knowledge and expertise making judgement calls. It appears that the Review assumes that the only alternative is a purely prescription-based approach.

The RIBA disputes this analysis and believes that there is a balance to be struck between performance-based and baseline prescriptive requirements, set out either in regulation or the Approved Document guidance. In relation to fire safety, the RIBA has

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called for such measures in relation to matters such as the use of combustible materials, and the provision of sprinklers and alternative means of escape. Announcement by the Government of consultations on the use of “desktop studies” and the banning of the use of combustible materials in cladding systems on high rise residential buildings suggests that the Government also recognises that a certain level of baseline prescription is necessary.

## **Design, Construction and Refurbishment**

### ***4. Identification of key duty holders***

A set of key duty holders are identified in the Review, aligned to those identified in the CDM Regulations 2015: Client, Principal Designer, Designers, Principal Contractor and Contractors. Again, it is proposed that these roles and associated statutory responsibilities should only apply to projects involving the narrowly defined HRRB definition, although it is recognised that this could be extended to a broader range of higher risk buildings.

The RIBA has also advocated applying the roles set out in the CDM Regulations to encompass the life safety of building users. Rather than applying this solely to HRRBs, or some other definition of higher risk buildings as a limited piece of parallel regulation to the CDM Regulations, the RIBA advocates extending the existing CDM Regulations to cover the life safety of those who use buildings as well as those who construct and maintain them. This would create clear duty holders with statutory duties in respect of life safety for all notifiable building works.

### ***5. The key information products***

Four key information products have been defined by the Review to be the responsibility of the key duty holders and which will form a “golden thread” of high quality information: the Digital Record, the Fire and Emergency File, Full Plans and the Construction Control Plan. The Fire and Emergency File and Construction Control Plan will form a useful means of ensuring compliance with Regulation 38 of the Building Regulations, gathering all the fire safety information critical to life safety in and around the building.

The RIBA strongly supports the principle of a Full Plans requirement. It seems clear that far too much building work is currently being approved without an appropriate Full Plans review at the pre-construction stage by the building control authorities. The Digital Record may be more difficult to realise in practice. Only a small proportion of the construction industry is working at BIM level 2, and the highly fragmented nature of the construction procurement process, with only limited data standards, means that a true Digital Record may be challenging to achieve. In reality on many projects there is a failure to produce accurate as built information, and this alone will require a major cultural shift in the construction industry,

## **6. The key gateway points**

Three key gateway points are proposed by the Review: Planning permission, Full Plans Approval and Completion. Adoption of these gateway points would be a very positive step in assuring compliance with building regulations. The RIBA welcomes the suggestion of greater involvement of the fire and rescue authorities at the Planning Permission gateway, especially for higher risk buildings. The proposal to strengthen the Full Plans Approval gateway is also very much welcomed. Far too much building work is currently being approved without an appropriate Full Plans review at the pre-construction stage by the building control authorities. This stage is already more rigorously overseen in Scotland through the building warrant approval process, and there seems little reason why such an approach should not be adopted for all building works of any significance. A strengthened Completion stage gateway as proposed would also be beneficial, and the RIBA proposes that the building control authority, Principal Designer and Principal Contractor should all have a role in signing off the Completion stage gateway. The Principal Contractor and the Principal Designer must first issue a signed certificate of completion, dated and in writing, that the works have been completed in accordance with the approved Full Plans and the building regulations approval. Only then can the Final Certificate be issued by the Architect/Contract Administrator/Employer's Agent.

## **7. Refurbishment**

A concept of a "safety case review" has been proposed by the Review where refurbishment work is carried out to existing HRRBs. The RIBA would like to see a much wider range of building refurbishments covered, and has proposed in previous submissions to the Review that for new refurbishment projects involving "material alterations" to higher risk buildings, the retro-fitting of central fire alarm systems and sprinklers/automatic fire suppression systems should be mandatory. This could be structured on a similar basis to the "consequential improvements" required under Part L of the Building Regulations to the energy performance of existing buildings where they are subject to renovation and/or extension.

## **Occupation and Maintenance**

### **8. Duty holder during the occupation and maintenance phase**

The Review recommends that in the new regulatory system the building owner or superior landlord should be the duty holder during the occupation and maintenance phase, with responsibility and accountability for building safety covering the whole building, who must in turn nominate a "building safety manager." Whilst supporting the concept of an identified duty holder during the occupation and use of the building, the RIBA would wish to see this apply to all higher risk buildings, beyond the narrow range of HRRBs proposed by the Review.

Mandatory Fire Certificates should be re-introduced for designated higher risk premises, prior to occupation, renewed annually. Annual renewal is essential to

maintain fire safety over a building's lifetime and to ensure that fire safety measures are amended as appropriate in response to changes to the fabric, use or other factors.

## **Residents' Voice**

### ***9. Resident engagement strategy***

The Review sets out very sensible provisions for the duty holder during the occupation and maintenance phase to be required to have an engagement strategy to provide residents with clear information about their rights to access fire safety information and assessments, as well as their obligations to ensure their own safety and that of their neighbours. Again, the RIBA believes that these provisions should be applied to all multiple-occupancy residential buildings and not just HRRBs as defined by the Review.

## **Competence**

### ***10. An overarching body to provide oversight of competence requirements***

A lack of skills, knowledge and experience, and a lack of formal process for assuring the skills of those engaged at every stage of the life cycle of higher risk buildings, is identified by the Review as a major flaw in the current regulatory system.

The RIBA supports the aspirations of the Review to raise levels of fire and life safety competency and accountability in the construction industry, and the acknowledgement that this will involve a long-term cultural change process. However, the detail of the proposals and the recommendations for an overarching body does not fully recognise the complex, multi-layered nature of the construction industry, which encompasses a range of professions and trade bodies, including regulated professions such as architects and approved inspectors, royal charter bodies such as the Engineering Council, Government-authorised competent persons schemes, such as Registered Competent Person Electrical and the Gas Safe Register, and unregulated competency schemes such as that for fire risk assessors.

The RIBA does not believe that a single body can oversee such a diverse range of competency requirements, and that initial attention should focus on requirements for the key duty holders: Client, Principal Designer, Principal Contractor as well as the proposed building safety manager role. Improving competency should relate to the overall work of the construction industry and not be narrowly focussed on the HRRBs as defined by the Review.

As noted in Appendix E to the Review report, the RIBA Expert Advisory Group on Fire Safety has recommended that the RIBA introduce mandatory life safety CPD and periodic testing to strengthen RIBA member awareness of the requirements to ensure the life safety of building users. The RIBA also looks forward to working with Government and the Architects Registration Board (ARB) to consider current and

future competence levels of those architects on the Register of Architects, and those joining the Register, in relation not just to HRRBs but in ensuring appropriate competency awareness across the range of projects in which architects engage.

## **Guidance and Monitoring to Support Building Safety**

### ***11. Ownership of guidance to create an outcomes-based approach***

As stated by the Review, the statutory guidance (in the form of Approved Documents) as it exists today is complex, ambiguous and not user-friendly. A further issue identified is the complexity of supporting guidance beneath the Approved Documents. The Review comments that the Approved Documents reference various other documents and standards and this increases the confusion and makes it difficult to determine what to do to meet requirements. The RIBA supports the proposals in the Review for the Approved Documents to be made more accessible to different audiences (arguably the current versions are not particularly easy to navigate even for professional users).

As set out in paragraph 3 above, the RIBA does not accept the view put forward that the building control system should be founded purely on an outcomes-based approach. A balance is needed, and the RIBA has consistently advocated that a baseline level of prescription based on long established principles of fire safe design are necessary. The Review recommends that the Government should work towards a long term aim that guidance on how to meet the building regulations is to be owned by industry, while government sets out regulatory requirements and provides oversight of the regulatory system. The RIBA has very serious concerns about this concept, which would require an extremely powerful and expert regulator to be able to monitor the industry guidance. Taking away deemed to satisfy type guidance requires an even greater level of skill and competence in the complex set of players that contribute to even quite simple building projects.

## **Products**

### ***12. Assessments in lieu of tests***

The term 'desktop study' has commonly been used to describe an assessment in lieu of test with respect to insulation and cladding systems. The Review appears to propose restrictions on the use of these assessments in order to ensure that they are only used in a responsible and appropriate way by competent people, based on an improved methodology. Given the large number of high-rise residential buildings that have been shown to have unsatisfactory external wall construction by the Government testing programme, the RIBA has concluded that there should be no place for assessments in lieu of tests in regard to the external wall construction of higher risk buildings. Indeed, if our recommendation that only non-combustible (European Class A1 only) materials should be used in the external wall construction of existing or new buildings with a

storey 18m or more above ground is adopted then the need for such tests would be considerably reduced.

We hope that the current Government consultations will result in the removal of the concept of desktop studies for the verification of the fire performance of external wall constructions and a prohibition on the use of anything but non-combustible materials in the external wall construction of buildings above 18m in height and other higher risk buildings.

### ***13. Product testing, standards and labelling***

The Review makes a number of very sensible recommendations in relation to improvements to construction product testing regimes, streamlining of product standards and achieving greater consistency and traceability in product labelling.

## **Golden Thread of Building Information**

### ***14. Building Information***

Great emphasis is placed by the Review on the role of two of the new key information products in ensuring a golden thread of design, construction and fire safety information that runs throughout the whole project procurement process – the Digital Record and the Fire and Emergency File. As noted at paragraph 5 above, the RIBA believes that the Review is over-estimating the degree to which the construction industry is truly operating at BIM level 2 at present, and that the Digital Record is probably a medium-term aspiration. The Fire and Emergency file is potentially the solution to achieving better and more consistent compliance with Regulation 38. The proposed relationship between the new key information products is not entirely clear, and they could presumably all in theory be incorporated within the Digital Record.

The main concern is that these proposals for the golden thread do not in themselves address the barriers to maintaining the golden thread in the context of many modern procurement methodologies, which tend to introduce discontinuities in ownership of information and liabilities, multiple opportunities for product substitution and a lack of independent client oversight of construction quality.

A fire safety overlay to the RIBA Plan of Work is being prepared to tackle some of these barriers, with the aim to demonstrate how to plot a thread of agreements, sign-offs and approvals at design stages, which must be delivered at construction stages.

## **Procurement and Supply**

### ***15. Procurement relationships and contract terms***

The greater use of Design and Build and PFI procurement models in the UK construction industry, and the way in which the allocation of management



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responsibilities within these models has evolved, has had an impact on the quality of construction of buildings, including failure to properly incorporate essential fire protection measures. Value-engineering by contractors of the original professionally produced design solutions can result in compromising key aspects of the safety of the original design, without an independent or considered evaluation of alternative proposals, and a lack of independent site inspection means that project outcomes do not always adequately reflect the original design intent.

This challenge is recognised by the Review:

“The way in which procurement is often managed can reduce the likelihood that a building will be safe. The contracting process determines the relationships, competencies and processes that exist between all the parties in the build and management processes. Procurement sets the tone and direction of the relationships between the client, designer, contractor and their subcontractors, as well as determining the formal specification of the building. Issues at this stage, for example inadequate specification, focus on low cost or adversarial contracting, can make it difficult (and most likely, more expensive) to produce a safe building.”

However, the actual recommendations in relation to procurement and supply are only loosely defined and seem to lack a proposed legislative or regulatory basis, relying instead on improvements in custom and practice. Given that procurement reform is likely to be a long-term process, the RIBA recommends that giving statutory obligations to the proposed new key duty holders (Clients, Principal Designers and Principal Contractors) is likely to be the most effective change mechanism. Client duties could include a responsibility to put in place independent inspection of works on site by a Clerk of Works, Site Architect or similar role. The Principal Designer should have powers during the design and any “contractor design” periods of projects to ensure safe design and construction regardless of the procurement model. This would require a direct Client appointment of the Principal Designer during the construction stage rather than by the Contractor (a perceived flaw in the current CDM 2015 arrangements).

### **International Examples**

#### ***16. The balance of outcomes-based versus prescriptive regulatory frameworks***

Although the Review makes comparisons with building regulations frameworks in other countries, these have been selected primarily to demonstrate examples of where outcomes-based frameworks have been adopted. In fact, a number of these countries, including Australia and New Zealand, now have extensive issues with combustible external wall construction on high-rise buildings and are tightening the prescriptive elements of their systems.

No reference is made to regulatory regimes in some mainland European countries, including France and Germany, and North America where there is significantly more emphasis in the building regulations systems on prescriptive baseline requirements to protect the life safety of building users.

The Review itself recognises that “...most countries’ regulatory frameworks contain elements of both prescriptive and outcomes-based regulation, and there are few examples of either wholly prescriptive or wholly outcomes-based frameworks...” It nevertheless promotes the notion that the system in England should follow an outcomes-based approach, whilst recognising that this will require a huge cultural shift, will increase technological, performance and contractual risk, and will require high levels of competence in the professional, contracting and regulatory branches of the construction industry.

By contrast the RIBA’s consistent position has been that there is a need for some clear, baseline prescriptive elements within the building control framework, whether through functional requirements or clear deemed to satisfy Approved Document guidance. Any alternative approaches should be limited in nature and based on authoritative standards, preferably internationally validated.

It is a recommendation of the Review that the Government should re-join the Inter-jurisdictional Regulatory Collaboration Committee (IRCC). The RIBA welcomes this proposal, but believes that the Government should also take cognisance of the International Building Code (IBC), which while facilitating clear prescriptive standards in relation to life safety aspects also accommodates an appropriate degree of performance-based regulation.

Along with a number of other UK built environment professional bodies, including the Chartered Institute of Architectural Technologists (CIAT), the Royal Institution of Chartered Surveyors (RICS), and the Building Control Alliance (BCA) and Local Authority Building Control (LABC), the RIBA is a signatory to the International Fire Safety Coalition, a partnership of leading professional bodies and standards organisations from across the globe, committed to producing and supporting one shared set of standards for fire safety. In an increasingly international real estate and construction market, the RIBA believes that the long-term future for structural and fire safety regulation is likely to be best based on the development of robust international standards.