



## CIC response to *Building a Safer Future*

### 1.0 Introduction

- 1.1 The 35 member bodies and 12 associates of the Construction Industry Council (see attached list at Annex A) strongly agree with the need for systemic change in the sector and welcome the publication of the final report of the Independent Review of Building Regulations and Fire Safety from Dame Judith Hackitt (*Building a Safer Future*).
- 1.2 CIC is the key umbrella body for the professions in the built environment, representing, through its member organisations, a collective membership of 500,000 individual professionals and more than 25,000 firms of construction consultants. As such the CIC and its members will play an essential role - in collaboration with the Fire Safety Sector, Build UK, the Construction Products Association, building owners and managers, residents' bodies and Government - to make certain we build safely for future generations.
- 1.3 Our members agree there is an urgent need to re-build public confidence in building safety, reassure investors and ensure the continued support of underwriters for the UK construction industry. As the public inquiry into the Grenfell Tower fire progresses and as litigation relating to other allegedly defective buildings proceeds, the need for reform will become clearer and more pressing.
- 1.4 Our members also agree that the reforms which are needed must deliver all aspects of life safety in buildings and thus be wider than those specifically recommended in *Building a Safer Future*, as Dame Judith herself advocates. It is also our view that the necessary change in industry culture will only be successful if that change is driven through at all levels and scales of work. The public sector as a major client has a key role to play in driving and supporting cultural change.
- 1.5 This response seeks to address the ambition of *Building a Safer Future* for changes to the regulatory, compliance and enforcement provisions for the construction sector. It also seeks to offer a development of Dame Judith's initial ideas for a Joint Competent Authority (JCA) and her recommendations relating to governance of building regulations and associated guidance, as well as changes to the current building control regime and profession.
- 1.6 There is widespread support for this approach amongst our membership – though our members do not necessarily agree on all the different mechanisms for reform. Whilst welcoming many of the recommendations, the Royal Institute of British Architects (RIBA), for example, would prefer to see a more prescriptive approach and argues that clear baseline standards would provide better protection for the public, such as installation of sprinklers and a ban on combustible materials in external cladding on high rise and other higher risk buildings. Others point to the widespread use of ACM cladding in spite of it apparently not satisfying requirement B4 of the Building

Regulations as evidence that prescription is not the answer. An approach based on outcomes leaves more scope for innovation, for example, in offsite manufacture.

- 1.7 LABC, representing local authority building control inspectors, and the Association of Consultant Approved Inspectors (ACAI) are both Members of CIC. Perhaps unsurprisingly, there is also a divergence of views amongst these two organisations regarding Dame Judith's proposal to limit enforcement of compliance of regulation in higher risk residential buildings to a restructured local authority building standards function.
- 1.8 As set out later in this report, the CIC view is that the services of both approved inspectors and local authority building control (to be renamed Building Standards under proposals by Dame Judith) will be necessary to deliver the improvement in building safety that is required. Local authority building standards officers would enforce compliance and approved inspectors should be part of the regulatory regime verifying and enforcing compliance so long as they are working for the JCA. The new regulatory system should avoid all conflicts of interest, including local authority building control departments having a regulatory role in relation to the buildings owned by that local authority.
- 1.9 As we set out in Section 6.2, approved inspectors still have a clear role advising clients on how to meet the regulations, and on higher risk buildings, clients will be required to use competent building control professionals for this role. In the new regime, which requires a more robust and rigorous approach to compliance and enforcement, there is likely to be a greater demand for competent building control professional services.

## **2.0 Background to our submission**

- 2.1 In formulating our response to *Building a Safer Future* we have consulted extensively with member organisations. We have done this through a combination of surveys, workshops, both an extraordinary and a general meeting of the CIC Council, and working groups of member representatives. All of this activity has been undertaken with the oversight of the CIC 'After Grenfell' Expert Panel and the CIC Board.
- 2.2 Following the tragic fire at Grenfell Tower in June 2017, the CIC agreed to establish an 'After Grenfell' Expert Panel made up of technical experts from across the member organisations to advise it on the actions that CIC should take and to prepare a submission to the Public Inquiry. In the following months a number of workshops and panels were held to identify the key systemic issues in the building process which needed to be tackled and what actions would deliver these changes. Following the announcement that Dame Judith Hackitt would lead an independent review of Building Regulations and Fire Safety, the Expert Panel focused its efforts into informing Dame Judith's review.
- 2.3 Following the publication of Dame Judith's interim report, CIC collaborated with the further development of her work by contributing directly to all but one of the seven working groups set up to inform phase 2 of her review and by meeting with her and members of her review team on a number of occasions.
- 2.4 After the publication of the final report in May 2018 and the subsequent invitation to respond to *Building a Safer Future* from the Ministry of Housing, Communities and Local Government (MHCLG), CIC Council discussed the report at a special meeting on 6 June and at its regular meeting on 26 June.

2.5 From the work of the various workshops and task groups in CIC, we identified that systemic change will come from a combination of:

- demonstrable competence of individuals in the roles they are undertaking;
- a procurement process which gives more weight to quality and safety of completed buildings;
- the allocation of responsibility and accountability to duty holders during design, construction and occupation, including maintenance and refurbishment;
- a 'golden thread' of information/documentation;
- the implementation of effective change-management processes;
- a transformation in the approach to supervision on site; and
- rationalisation and reinforcement of the regulatory oversight.

2.6 We have a number of work streams that we are undertaking to support delivery of these changes (See Section 4) and look forward to working with MHCLG going forward into implementation.

### **3.0 More detailed response to Building a Safer Future**

3.1 Our response to the consultation sets out how we think systemic change can be brought about in the building industry. These changes should apply to all buildings, so that both quality and life safety are improved.

3.2 Those buildings that present higher risks to occupants, a wider estate than the 10-storey residential buildings Dame Judith Hackitt is suggesting, should be subject to enhanced regulatory oversight both during design and construction and in occupation.

3.3 Our response focuses on those recommendations where CIC believes further consideration is needed, or where we have specific observations on how the recommendation (or group of recommendations) may most effectively be taken forward.

### **4.0 The new regulatory framework and the Joint Competent Authority**

#### *(Responding to Recommendation 1.2)*

4.1 Government must retain responsibility for regulatory policy and for setting performance standards for building work – these are key areas of political authority which should continue to be properly resourced and directed from the centre. Compliance, and where necessary, enforcement should in our view be delivered through a revised and more robust building control framework, operating at the local level.

4.2 In her proposal for a Joint Competent Authority (JCA), Dame Judith has combined recommendations for more robust local building control activity aligned with fire and rescue and health and safety agencies with proposals to address the need for some form of national oversight of the building control system. It is unclear quite how this combination of local and national activity is to be achieved, especially when building control and fire and rescue are services that are both provided and accountable locally.

4.3 This paper therefore proposes the separation of enhanced joint local provision (bringing together building control, fire and rescue and health and safety as recommended by Dame Judith Hackitt) and the provision for clear governance of building regulations, associated guidance and the whole compliance and

enforcement regime over the whole life of a building, including oversight of building control professionals.

## 5.0 A Building Standards Agency

*(Responding to a number of Recommendations throughout the report)*

5.1 We propose the creation of a **Building Standards Agency** tasked with oversight of both construction and building management, with a clear objective of ensuring that buildings are built to be safe and remain safe throughout their operational life. The Building Standards Agency would be responsible for a number of measures recommended by Dame Judith, including:

- managing the mandatory reporting system, including the process for imposing sanctions for non-reporting (Rec 2.9, 3.7);
- to act as the prescribed person under the Public Interest Disclosure Act 1998 to implement Dame Judith's recommendation for a mandatory reporting mechanism (Rec 1.4);
- to have oversight of a broader confidential reporting mechanism covering all building work (Rec 1.4);
- to act as mediator in resolving any internal disagreement within Joint Competent Authority frameworks (we support the formation of a JCA type body at local level, but we question at the outset how it will work with two agencies being local and one national). We have more detailed ideas about the operation of the JCA which we would be willing to share with MHCLG in a separate paper or presentation;
- to have oversight of a national strategy for advice, guidance and support to residents, landlords and building owners on effective resident involvement and engagement;
- set competency standards for local authority and independent building control professionals (Rec 5.3);
- set competency standards for the Building Safety Manager (Rec 5.4);
- have a role in validating and assuring oversight of industry development of guidance. supporting the requirements of revised building regulations and have the ability to 'step in' to produce this guidance if industry led panels are in default (Rec 6.1 & 6.2);
- be responsible for a periodic review of the Building Regulations system which should report every five years, including looking at the effectiveness of accountabilities, responsibilities, guidance, and the effectiveness of the regulator (Rec 6.2);
- coordinating assessment of material testing and market surveillance regimes (Recommendations in Section 7); and
- establishing and managing a framework agreement that defines how the JCA should operate at a local level bringing together the LABS, HSE and Fire & Rescue Service.

## 6.0 A more robust and effective compliance framework

*(Responding to Recommendations in Section 2)*

6.1 Modern building work is considerably more complex than has historically been the case, driven by a need to deliver better performance. Whilst we agree with Dame Judith's call for simplification, it is important to recognise that the process of designing and maintaining complex buildings requires a wider adoption of system-based thinking; the development of clearer risk identification and management skills; extensive collaborative working amongst design and construction teams; and the

creation and maintenance of accurate digital records of the whole building as a working system.

6.2 We believe that in principle this will be most effectively delivered by placing initial responsibility for compliance with clients, requiring a clearly independent, rigorous and robust system of checking through a Certifier / Verifier regime whereby:

- **Certification** - Clients are required to appoint independent building control professionals to advise on and jointly certify (with the client) that building work is compliant at the key gateways indicated in *Building a Safer Future*, e.g. at planning stage (in terms of fire strategy and emergency service access); prior to commencing work on site and at completion and handover;
- **Verification** - Local Authority Building Standards bodies verify compliance by undertaking checking of information submitted as necessary in relation to the design and construction of the building work, inspecting on a risk assessed basis, taking enforcement action where required and expanding their current activities to address the ongoing building management regulatory roles identified in *Building a Safer Future*. Local Authority Building Standards will work under the Joint Competent Authority Framework established by the proposed Building Standards Agency for higher risk residential buildings (and potentially other high-risk buildings – see below)

## 7.0 Higher risk residential buildings

(Responding to Recommendations 1.1 & 2.8)

7.1 Dame Judith's recommendations are aimed at 'higher risk residential buildings' (HRRBs). These are defined as multi-occupancy buildings over 10 storeys high. Whilst there are several thousand existing buildings which would be covered by the proposals for buildings in occupation, this would be a 'niche' area for new buildings. Even taking into consideration refurbishment work on existing buildings, we consider that the volume of projects covered would still have little effect on the mainstream of construction. Dame Judith does suggest that some of her recommendations could be applied more widely, and we agree.

7.2 The CIC Council's conclusion was that work should now be done on the key aspects of systemic change which would be applied to all buildings and then to look at what additional regulatory oversight should apply to higher risk buildings. The outcome should be an integrated system that manages elevated risk effectively, rather than as a separate regime bolted on to the existing system.

7.3 It is fully recognised that widening the scope has significant implications for industry in terms of additional capacity, skills and resources and that the transition would need to be managed carefully. Nevertheless, the gains in safety that will be achieved in all buildings will be worth this approach.

7.4 Given the inevitable resource constraints, a risk-based approach is needed to ensure that all buildings are given an appropriate level of regulatory involvement.

7.5 CIC would expect to play a significant part in supporting MHCLG with this task.

7.6 Our view is that the new regulatory regime should address risk in a proportionate way based on three broad categories of building work (across all types of use and occupation):

- Higher risk building work – with greater life safety risks
- Complex building work
- Simple building work

7.7 We are working to refine such risk categories, but at this stage our view is that higher risk should not be solely defined by height, but also include buildings where people sleep or are occupied by vulnerable people. This would include: schools, hospitals, care homes and some leisure and recreational buildings.

## 8.0 Clear responsibilities and good knowledge management

*(Responding to Recommendations in Section 8)*

8.1 As Dame Judith suggests, but does not set out in detail, this proposed new regulatory regime needs to be supported by clarified responsibilities and a golden thread of change management and knowledge management. We suggest that this could be achieved by the following:

- delivery of information about life safety requirements, including fully digital building records, fire risk assessments, safety files and maintenance schedules, should be integrated into the information required by the existing Construction Design and Management (CDM) Regulations. At present, this information is required under both Building Regulations and the Regulatory Reform Order. Incorporating all information delivery requirements into CDM and making them a key deliverable under Gateway 3 at handover would avoid duplication of regulatory requirements for records that need to be managed. The requirements to deliver information already included in the Building Regulations need to be reviewed and possibly revised, as well as the enforcement arrangements. Defining the precise information requirements is addressed in Section 11.2 of this response, describing further work required;
- responsibility for compliance with the Building Regulations as set out in the Building Act 1984 should be amended so that the client, principal designer, designers, principal contractor and sub-contractors (as defined under the CDM regulations) are all given clear duties and responsibilities. This should include a duty to collaborate in checking that building work is safe during and after construction;
- the roles of the duty holder during occupation and the Building Safety Manager, recommended in *Building a Safer Future*, should be defined and that of the Responsible Person under the Regulatory Reform Order, should be amended to avoid confusion; and
- provisions for ongoing control in the Building Act should be used in order to require building owners of appropriate buildings to undertake regular inspections on a risk basis agreed with the JCA.

## 9.0 Stronger enforcement and meaningful penalties

*(Responding to Recommendation 2.13)*

9.1 Penalties and powers needed to address non-compliance (including provision for retrospective action where there is loss of life) should be effective and proportionate and should clearly dissuade non-compliance, including:

- the range of civil sanctions and powers as set out in *Building a Safer Future*; and
- criminal penalties applicable to clients, building owners, designers and contractors as necessary in the event of loss of life or of serious failings which

create a significant risk of loss of life, as is already the case in relation to health and safety legislation in the workplace

## 10.0 Strengthening procurement

*(Responding to Recommendations in Section 9)*

- 10.1 We welcome Dame Judith's recognition of a culture today which leads to a 'race to the bottom', and that doing things cheaply is taking precedence over safety. She sets out a number of ideas and suggestions for changing behaviours. However, feedback from our membership is that these are vague and weak.
- 10.2 We are advocating that recommendations put forward in the Procurement work stream convened by Dame Judith for phase 2 of her review be revisited. We would welcome a government commitment to pick this work up and go further.
- 10.3 The UK needs to move away from lowest price tendering approaches which increase risk and underpin unsustainable business models. The approach needs to ensure that life safety and quality are given appropriate weighting in tender assessments, so that they can be properly balanced against costs. To do this:
- government and the wider public sector should lead in adopting best value procurement approaches, promoting the use of alliancing contracts and driving decisions based on life cycle cost and value rather than capital cost alone. This requires a significant shift and training of public sector procurers to support the new methodologies; and
  - industry should lead on a detailed review of procurement practice and contracts to identify a longer-term pathway for adoption of best value procurement approaches.

## 11.0 Further work to deliver workable solutions for safer buildings

- 11.1 CIC members understand that there is still much detail to be worked out and are keen to play an active part in ensuring that the recommendations deliver workable solutions for the industry and provide a safer future for occupants of buildings.
- 11.2 We are focussing on the following workstreams:
- **Improving competence:** The CIC is facilitating the work of the IRG Steering Group on Competences for *Building a Safer Future*. This group is bringing all those professions and occupational sectors identified in *Building a Safer Future* together to develop competency frameworks. The group will also draw up proposals for an overarching organisation to ensure, on an ongoing basis, that all those involved with life critical aspects of higher risk building design, construction and management have the required competencies.
  - Our members are also starting work to make sure that every aspect of life safety in buildings is appropriately covered in both initial qualifications and in CPD requirements.
  - **Ensuring accountabilities for duty holders:** Three key duty holders are identified in the review - for design, for construction and for occupation. The proposal, supported by CIC is that the first two should be aligned with the 'principal designer' and 'principal contractor' roles set out in the CDM regulations. The third role is the duty holder during occupation, which has some parallels with the 'responsible person' under the Regulatory Reform Order.
  - The duty holder during occupation must appoint a **building safety manager**.

- CIC's current view is that the roles and responsibilities of the duty holders should be incorporated into statute by amending the CDM regulations to cover life safety for all building users and not just those working on or in the building.
- However, it is recognised that this legislation comes under the Department of Work and Pensions, not MHCLG. It may also be difficult to include other aspects of the systemic changes into this legislation.
- If there is separate legislation, the problem of the overlap with CDM would have to be addressed.
- We are keen to work with the MHCLG to advise on how this legislation could be extended and are we are starting our own investigations into the process. We would welcome early engagement with the Ministry on this topic.
- Whilst duty holders for design and construction are needed for all buildings, the practicality of having the role (with full regulatory oversight) for building occupation of all buildings will need to be considered. This will need to be linked to the identification of higher risk buildings for which greater regulatory scrutiny will be required during design, construction and occupation.
- **Defining a 'golden thread' of information:** CIC has identified the 'discontinuity' problem in design, construction and occupation. This has been picked up in *Building a Safer Future* and the proposed solution is the golden thread of information/documentation on life safety issues through the whole process.
- We are planning work to flesh out what should be in the documentation at each stage with the intention of supporting the MHCLG in taking this forward.
- There is also a significant link to the work of the Centre for Digital Built Britain and the development of digital standards underway in BSI as well as in the European Standards body, CEN, and ISO, the international standardisation body. It is important that MHCLG engages with these bodies, as well as the CIC BIM Forum and the UK BIM Alliance, in developing the proposals for the Golden Thread.
- **Change management:** Dame Judith rightly criticises the building industry's weak procedures on change management. The CIC is to set up a sub-group to produce a code which sets out good practice in the context of the way the industry works. A focus will be on product substitution and 'value engineering'.
- **Procurement:** The CIC is supporting the *Procure for Better Value* work of the Construction Leadership Council, led by Ann Bentley, in the development of alternative procurement models and tools that will promote quality and better value over a building life cycle and get away from the current approach which leads to a 'race to the bottom'.

## 12.0 Conclusion

- 12.1 In summary, CIC welcomes Dame Judith's report and the initial response from Government. There is clearly much detailed work to develop the proposals and recommendations into implementable actions with a clear understanding of all consequences; and CIC and its members are willing and ready to contribute constructively to that process.
- 12.2 We look forward to working with the implementation team, including the newly-formed Industry Safety Steering Group, to be chaired by Dame Judith, and others, to help achieve the objective of delivering safer buildings.

**Graham Watts OBE, Chief Executive, submitted on behalf of the Construction Industry Council  
31.07.2018**

**Annex A – CIC Members (as at 31 July 2018)****MEMBERS**

ACA	Association of Consultant Architects
ACAI	Association of Consultant Approved Inspectors
ACE	Association for Consultancy and Engineering
APM	Association for Project Management
APS	Association for Project Safety
BAFE	British Approvals for Fire Equipment
BCS	British Computing Society
BIID	British Institute of Interior Design
BIFM	British Institute of Facilities Management
BRE	Building Research Establishment
BSRIA	Building Services Research and Information Association
CABE	Chartered Association of Building Engineers
CIAT	Chartered Institute of Architectural Technologists
CIBSE	Chartered Institution of Building Services Engineers
CICES	Chartered Institution of Civil Engineering Surveyors
CIH	Chartered Institute of Housing
CIHT	Chartered Institution of Highways & Transportation
CIOB	Chartered Institute of Building
CIPHE	Chartered Institute of Plumbing and Heating Engineering
CIRIA	Construction Industry Research and Information Association
GF	Ground Forum
ICE	Institution of Civil Engineers
ICWCI	Institute of Clerks of Works and Construction Inspectorate
IET-BES	Institution of Engineering and Technology - Built Environment Sector
IFE	Institution of Fire Engineers
IIRSM	International Institute of Risk & Safety Management
ISSE	Institute of Specialist Surveyors and Engineers
IStructE	Institution of Structural Engineers
LABC	Local Authority Building Control
LI	Landscape Institute
NHBC	National House-Building Council
RIBA	Royal Institute of British Architects
RICS	Royal Institution of Chartered Surveyors
RTPI	Royal Town Planning Institute
SAFed	The Safety Assessment Federation

## ASSOCIATES

ADJ SOC	Adjudication Society
BACH	British Association of Construction Heads
BBA	British Board of Agrément
BSI	British Standards Institute
CCS	Considerate Constructors Scheme
CIMCIG	Chartered Institute of Marketing (Construction Industry Group)
CIPR	Chartered Institute of Public Relations
KCL	King's College London Centre of Construction Law and Dispute Resolution
LCI-UK	Lean Construction Institute
SCL	Society of Construction Law
SFE	Society of Façade Engineering
UCEM	University College of Estate Management