



Home Office

Fire Safety Government consultation

This consultation begins on **20 July 2020**

This consultation ends on **12 October 2020**

About this consultation

To This consultation is open to the public and is targeted at groups and/or individuals impacted or representing the interests of those affected by the Regulatory Reform (Fire Safety) Order 2005, including but not limited to: 'Responsible Persons' being the owners, occupiers, or other persons in control of relevant premises; Fire safety professionals, Enforcing Authorities; and 'Relevant Persons' being any persons lawfully on, or in the immediate vicinity of, said premises and who would be at risk from fire on the premises.

We welcome responses from anyone else with an interest in or experience of the areas being consulted on within this consultation.

The consultation relates to England only.

Duration: From 20/07/2020 – 12/10/2020

Enquiries (including requests for the paper in an alternative format) to:

Email: FireSafetyUnitconsultations@homeoffice.gov.uk

or

Fire Safety Unit Consultations
Home Office, 2 Marsham Street,
Fry Building London
SW1P 4DF

How to respond:

There are three thematic sections in this consultation. Each section is divided into topical chapters which provide background information to the lead question(s).

Respondents can answer as many or as few questions as they wish. You do not have to comment on every section or respond to every question in each section but can focus on where you have relevant views and evidence to share. If you wish to respond to all questions, you do not have to complete the whole form at once.

Please send your response by 12 October 2020.

Please respond to the questions in this consultation online at:

<https://www.gov.uk/government/consultations/fire-safety>

Alternatively, you can send in electronic copies to:

FireSafetyUnitconsultations@homeoffice.gov.uk; or,

Alternatively, you may send paper copies to:

Fire Safety Unit

Home Office, 2 Marsham Street,

Fry Building London

SW1P 4DF

Additional ways to respond: If you wish to submit other evidence, or a long-form response, please do so by sending it to the email address or postal address above.

Response paper: A response to this consultation will be published online at: <https://www.gov.uk/government/consultations/fire-safety>

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Foreword

The Grenfell Tower fire was a national tragedy that resulted in the greatest loss of life in a residential fire since the Second World War. It shook confidence in the building safety system to the core. None of us will ever forget the events of that terrible night and our thoughts remain with the bereaved survivors and residents of the Lancaster West Estate.

As a Government we are determined to learn lessons, and this is reflected in the actions we have taken in the three years that have passed since 14 June 2017. The Government commissioned and acted on the recommendations of Dame Judith Hackitt's independent review of building and fire safety; we launched the Grenfell Tower Public Inquiry and committed to implementing and legislating for the recommendations in its Phase 1 report; established a remediation programme supported by £1.6 billion of Government funding to remove unsafe cladding from high-rise residential buildings; and committed £20m of funding to enable Fire and Rescue Services to review or inspect all high-rise multi-occupied residential buildings by the end of 2021 and to bolster work targeting other higher-risk buildings. Today, we take another significant step with the publication of the Building Safety Bill, through which we are introducing the biggest change in building safety in a generation.

Sir Martin Moore-Bick's report, examining the events on the night of the fire on 14 June, was exhaustive. Building around the testimony of survivors who faced unimaginable trauma, and of the fire-fighters who showed exceptional bravery in tackling this unprecedented fire, its findings are compelling. It makes a series of important recommendations and we are working closely with London Fire Brigade and all Fire and Rescue Services in England to ensure they are implemented

This consultation sets out how we propose to implement the recommendations set out in the Phase 1 report that require new legislation. Many of these recommendations seek to ensure that Fire and Rescue Services can plan for and respond to a fire in a high-rise residential building. We have already laid the foundations for implementation through the Fire Safety Bill, which is currently before Parliament.

Our proposals in this consultation focus on providing residents in such buildings with greater assurance from fire safety improvements in their buildings; driving effective and sustainable operational outcomes for fire-fighters; and holding those responsible for breaches of the Fire Safety Order to account. In some areas, this means we are not only proposing to implement the recommendations as set out by the Inquiry but to go further still. In others, it means implementing the recommendations in a way that is practical and effective as well as proportionate to the risks that Sir Martin identified.

In his report, Sir Martin noted that it was important that his recommendations ‘command the support of those who have experience of the matters to which they relate’¹. This consultation gives all those affected the opportunity to make their voices heard.

As part of the ongoing improvements for building and fire safety, this consultation also sets out proposals to strengthen the Fire Safety Order for all regulated buildings alongside a commitment to overhaul supporting guidance. I would like to take this opportunity to thank all those who gave their views in response to last year’s Call for Evidence on the Order. Finally, we make proposals to improve the regulatory framework for how building control bodies and Fire and Rescue Authorities work together to ensure that fire safety issues are addressed properly and at the right times during building work, and for the handover of fire safety information at the end of the work.

Our promise as a Government is to work together to ensure that no such tragedy can ever be allowed to happen again. We need to get this right. This consultation gives you the opportunity to inform our final decisions to ensure that they are driven by effectiveness and ultimately, ensure that all people are safe from fire where they live, stay or work.



Lord Greenhalgh
Minister of State for Building Safety, Fire and Communities at
Ministry of Housing Communities & Local Government and Home Office

¹ <https://www.grenfelltowerinquiry.org.uk/phase-1-report>

Executive Summary

The Grenfell Tower fire was a national tragedy that resulted in the greatest loss of life in a residential fire since the Second World War.

As a Government, we are determined to learn lessons from the fire and ensure that others do not suffer the loss and trauma that the Grenfell community have faced as a result of that terrible night in June 2017. This is reflected in the actions we have taken in the three years that have passed since the fire. These have included acting on the recommendations of Dame Judith Hackitt's independent review of building and fire safety; commissioning the Grenfell Tower Public Inquiry; establishing a remediation programme supported by £1.6 billion of Government funding to remove unsafe cladding from high-rise residential buildings; undertaking, in conjunction with the fire service, a building risk review programme for all high-rise residential buildings in England by December 2021 supported by new funding; and committing to legislate to reform the regulatory system through the Fire Safety Bill and the Building Safety Bill.

This consultation is a further step in the Government's actions to improve fire and building safety for all buildings. It also sets out how we propose to implement the recommendations addressed directly to Government by the Grenfell Tower Inquiry Phase 1 report, accepted by the Prime Minister on the day of the report being published in October 2019. Our proposals focus on providing residents with greater assurance and fire safety improvements in their buildings; driving effective and sustainable operational outcomes for fire-fighters; and holding Responsible Persons (including building owners and managers) to account.

The Regulatory Reform (Fire Safety) Order 2005

The Regulatory Reform (Fire Safety) Order 2005 (FSO) is the cornerstone of general fire safety legislation and extends to England and Wales, regulating fire safety in non-domestic premises, including workplaces and the non-domestic parts of multi-occupied residential buildings.

It was introduced to consolidate the previous range of legislation relating to fire safety in workplaces, reduce burdens on businesses and enforcing authorities from overlapping general fire safety regimes, and bring other non-domestic premises into scope of fire safety legislation.

The FSO places fire safety duties on persons with control of non-domestic premises – the Responsible Persons (RP) - and on others (dutyholders) to the extent of their responsibilities under the FSO. The FSO principally adopts a risk-based approach to fire safety requiring RPs to ensure that general fire precautions are in place. In this way the FSO promotes the avoidance of fires and the mitigation of the effects of fires.

The Government is currently in the process of legislating to amend the FSO. The Fire Safety Bill seeks to clarify the scope of the FSO, which will lead to better identification, assessment and enforcement against fire risks in multi-occupied residential buildings. The Bill will clarify that the FSO applies to the structure, external walls (including cladding and balconies) and individual flat entrance doors between domestic premises and the non-domestic parts. It will also affirm the ability for the Fire and Rescue Service² to enforce against non-compliance in relation to these parts of such premises. The Bill provides a firm foundation on which to implement the Grenfell Tower Inquiry Phase 1 recommendations.

This consultation sets out proposals in relation to buildings in England only.

Section 1: Strengthening of the Fire Safety Order and Improving Compliance

In June 2019, the Home Office published a Call for Evidence on the FSO inviting views on the application of the Order in England. This was the first step in a process to ensure that the FSO continues to be fit for purpose as part of the Government's consideration of the reform of the wider building safety landscape.

A summary of the responses³ was published on 19 March 2020. The conclusion reached was that the FSO generally works for the premises it regulates. It does, however, require strengthening in several areas to improve standards of fire safety in these premises. This consultation proposes changes to address these areas. In some cases, where we consider further information is necessary to understand whether there is a suitable legislative solution, we are seeking to gather evidence.

The key areas addressed within this section are:

- **Guidance:** A clear request from respondents to the Call for Evidence was for better supporting guidance. Therefore, we plan to overhaul the current suite of guidance. This is not subject to consultation although we are seeking views on matters relating to the adequacy of the relevant provisions in the Order and on the form of revised or new guidance.
- **Responsible Persons:** Identification of the RP was highlighted as a significant and multi-faceted challenge. To address this, we are consulting on placing a legal requirement on the RP to record who they are, the extent of their responsibility for the building under the FSO, their contact information as part of the fire risk assessment and whether they should be required to provide a contact address in the United Kingdom. These measures should also support greater co-operation and co-

² Fire and Rescue Authorities have the statutory responsibility to carry out the functions set out in the Fire and Rescue Services Act 2004. Fire and Rescue Services are the operational part of the Fire and Rescue Authority

³ <https://www.gov.uk/government/consultations/the-regulatory-reform-fire-safety-order-2005-call-for-evidence>

ordination between multiple RPs within a single premises and sit alongside a further proposal to require all RPs to identify themselves to each other within the same premises.

- **Quality of Fire Risk Assessments:** The variable quality of fire risk assessments was a significant concern. We are consulting on a proposal to introduce a competence requirement for fire risk assessors. We also propose to impose a legal requirement on RPs to record the entirety of their fire risk assessments. In order to enable better identification of those accountable, we also propose to place a requirement on RPs to record the name and contact information of any person engaged by the RP to undertake all or part of the fire risk assessment in the completed document.
- **Provision of Information:** We recognise the importance of strengthening measures for residents in all multi-occupied residential buildings. We are consulting on whether to require RPs in all multi-occupied residential buildings to provide specific fire safety information to residents. This would include providing the fire risk assessments to residents upon request. We are also proposing to require RPs in such premises to identify themselves to residents. We want to ensure that information is transferred effectively between outgoing RPs and their replacements (for example when building ownership changes hands). This is why we are proposing a new requirement on RPs to provide the most up-to-date fire risk assessment to anyone taking over this responsibility.
- **Enforcement and Sanctions:** Revised guidance on these issues will provide additional clarity and support for enforcing authorities to take action against non-compliance with the FSO. We are also seeking views on the sufficiency of the level of fines available for specific offences under the Order.
- **Maintenance, including the role of residents:** The FSO contains two specific provisions requiring the maintenance of facilities, equipment and devices for safeguarding relevant persons and fire-fighters in the event of a fire. Building on discussions with stakeholders, we want to use this consultation to test views on the effectiveness of these provisions.
- **Higher Risk Workplaces:** We know that some buildings are higher risk than others, but there is no clear consensus on what these buildings are or how they should be defined. Regulations under the FSO may be made requiring additional precautions to be taken in relation to risk to relevant persons in such higher risk premises. We are therefore seeking further evidence to support decisions on whether and, if so, what further precautions are required for specific premises.
- **Fees and Charges:** To enable Fire and Rescue Authorities (FRAs) to charge for enforcement activity under the FSO, we are consulting on potential changes to the relevant charging provisions in the Fire and Rescue Services Act 2004 (FRSA). In 2018/19, over a third of FRA inspections/audits under the FSO registered an unsatisfactory outcome (i.e. breaches of the Order). We are consulting on the merits

of removing the provisions under the FRSA which prohibit FRAs from charging for action taken in their capacity as enforcing authorities under the FSO. Enabling charging for FSO audits and enforcement would align with the approach proposed for the new regulator in the draft Building Safety Bill. We are also seeking evidence and insight to help improve our understanding of whether enabling FRAs to charge for FSO activity in the future will encourage greater compliance with the FSO.

- **Charging for False Fire Alarms:** The consultation is also seeking views on the current criteria for charging for false fire alarms for FSO regulated premises under the FRSA and the effectiveness of existing provisions in the FRSA.

Section 2: Implementation of the Grenfell Tower Inquiry Phase 1 Report Recommendations

Building on the firm foundation provided by the provisions set out in the Fire Safety Bill, this consultation sets out how the Government plans to implement the Grenfell Tower Inquiry Phase 1 (GTIP1) Report recommendations that require a change in law (listed in Annex A). In many cases, the Government's proposals go beyond the Inquiry's recommendations whilst in others we have proposed an approach which prioritises residents' safety in a way that is proportionate to the risks the Inquiry identified. Our aim is to implement the recommendations in the most practical, proportionate and effective manner. As the Inquiry's Chair, Sir Martin Moore-Bick, said in the Phase 1 report, it is critical that we get this right and that the recommendations 'command the support of those who have experience of the matters to which they relate'.⁴ We therefore want to test the strength of views on each of the proposals. It is vital that in implementing the recommendations, we have the broad support of residents, Responsible Persons (including building owners and managers), the fire sector and enforcing authorities.

The Government recognises that the majority of the relevant recommendations call for building owners and managers to be subject to new legal requirements. Building on existing provisions in the FSO, we intend to apply our proposals to the person that has control of the building (or part thereof) under the Order, RPs and dutyholders, who have the overall responsibility to put in place general fire precautions to ensure the building is safe. This includes building owners and managers. The recommendations that are addressed in this section are:

- **Definition of Height for High-Rise Buildings:** We propose setting a clear height threshold for the category of buildings referred to as "high-rise". This is aligned to the proposed scope of the Building Safety Bill on enactment, which is 18 metres and/or more than six storeys, whichever comes first.

⁴ Grenfell Tower Inquiry: Phase 1 Report Overview. Para 33.2
<https://www.grenfelltowerinquiry.org.uk/phase-1-report>

- **External Walls:** We propose to require RPs to provide local FRSs with information about the design of the building's external walls and details of the materials they are constructed from. RPs will need to inform FRSs of any material changes made. We propose to go further than the Inquiry's recommendation by requiring that RPs also provide information relating to the level of risk arising from the design and materials of the external wall structure and the associated mitigating steps that have been taken.
- **Plans:** We propose to require RPs to provide their local FRS with up-to-date floor plans which identify the location of key firefighting systems. We also propose that these are shared electronically and not in paper form. Plans should be kept up to date. Our proposals go further than the Inquiry's recommendation by also requiring RPs to provide FRS's with a single page building plan which should include the location of all key firefighting equipment.
- **Premises Information Boxes:** We propose to impose a requirement that RPs have a Premises Information Box (PIB) in all high-rise multi-occupied residential premises. The PIB will hold copies of those documents identified for this purpose within the Inquiry's recommendations (including plans) and, in addition, a copy of the fire risk assessment and contact details for the relevant RP.
- **Lifts:** We propose real-time exception reporting of failures of relevant lifts and the mechanism which allows fire-fighters to take control of the lifts. Under our proposals, RPs will be required to undertake monthly checks of these lifts and where they identify that a relevant lift or mechanism has failed, they must report it to their local FRS. We will enhance this proposal to maximise the safety of residents through:
 - the application of this requirement to all lifts within a relevant building not just those designed for use by fire-fighters;
 - requiring that other critical pieces of fire-fighting equipment are also tested monthly and any failures reported to Fire and Rescue Services; and
 - ensuring transparency for residents who will be able to access the results of the monthly checks.
- **Evacuation Plans:** We propose to require RPs to draw up and keep under regular review evacuation plans. We are proposing that these are shared electronically with their local FRSs, and not in paper form, with a paper copy being placed in the PIB. We also want to test whether this proposal should be extended to cover all multi-occupied residential buildings of 11m and above, which would go further than the Inquiry's recommendation.
- **Personal Emergency Evacuation Plans (PEEP):** We propose to require RPs to provide details of any residents, who self-identify to them as requiring assistance to evacuate, to their local FRS and to place this information in a PIB. Residents will need to be clearly told how they can declare their need for assistance. In buildings with a Waking Watch (with un-remediated cladding or under interim measures and in which

'stay put' is temporarily suspended due to heightened risk), the RPs will be required to prepare a PEEP for each resident who self-identifies as requiring assistance with evacuation. They will also need to keep PEEPs up to date and, with the explicit consent of the relevant residents, share them with the local FRS to assist with their planning and response to any incident. Our proposal takes account of the practical challenges in putting the Inquiry's recommendation into effect and is proportionate to the risks it identified.

- **Information to Residents for all multi-occupied residential buildings:** We propose to require the RP to provide fire safety information (including instructions for evacuation) in an accessible manner. We are also seeking views on whether other information should be provided to residents.
- **Fire Doors:** We propose to require RPs to undertake checks of the self-closing devices in multi-occupied residential buildings over 11 metres and above:
 - For buildings of 18 metres and above, all fire doors in the non-domestic parts (the common parts) should be checked at not less than three-monthly intervals and all flat entrance fire doors at not less than six-monthly.
 - For buildings of 11-18 metres, all fire doors in the non-domestic parts (the common parts) should be checked at not less than six-monthly and all flat entrance fire doors at not less than yearly intervals.

For buildings under 11 metres, we are seeking views on the role of guidance to promote checks of the self-closing devices on all fire doors in these buildings at a frequency which would take account of the age of a building, its height and risk profile. The Government has sought to provide a proposal for consultation that achieves a reasonable and practicable level of checks proportionate to the risk.

In line with the Inquiry's additional recommendation on fire doors, where unsafe cladding is incorporated into external walls, we propose that those that have 'control' of the relevant door in high-rise residential buildings are placed under an obligation to ensure that the door complies with current standards and if necessary, replace the door. We are also seeking views on whether the provisions of the Fire Safety Bill, with possible changes to improve the effectiveness of the maintenance provisions in the FSO, alongside the £1.6bn the Government has made available to accelerate the pace of remediation, will address sufficiently the Inquiry's concerns.

- **Wayfinding signage:** We propose implementing the Inquiry's recommendation that wayfinding signage be present in all high-rise residential buildings. We propose going beyond the Inquiry's recommendation and introduce a requirement for it in all multi-occupied residential buildings 11 metres and above. Wayfinding signage is a relatively straightforward and inexpensive to introduce and will support Fire and Rescue Service operations.

Section 3: Building Control Bodies consultation with Fire and Rescue Authorities

The FSO and Building Regulations contain requirements for building control bodies/local authorities to consult the enforcing authorities under the FSO on plans for building work. The Building Regulations also impose requirements for fire safety information to be handed over to the RP for premises subject to the FSO on the completion of building work.

The Government is acting on concerns raised by stakeholders about the effectiveness of these arrangements. We agree that the regulatory framework could be improved to enable fire safety issues to be addressed properly and at the right times during building work, to ensure compliance with Building Regulations and FSO requirements. In summary:

- **Information Sharing:** We want to test whether current guidance on information to be provided to Fire and Rescue Authorities is sufficient or whether there are any areas where this should be improved or needs further guidance and whether there would be value in a standardised approach to presenting the information.
- **Plans Certificates:** We are seeking views on whether there is value in plans certificates being mandatory for buildings covered by the FSO, or whether further guidance would be more beneficial. A plans certificate is a statement that the Approved Inspector (where they are the building control body) has checked the plans of the building work and considers them to be compliant with Building Regulations. This provides a level of assurance to the Fire and Rescue Authority that the plans have been checked for compliance with Building Regulations. These are currently voluntary.
- **Timeliness of Response:** We are seeking views on whether further consultation points in the process should be prescribed in legislation, and if so when they should be prescribed to promote timely engagement between the building control body and the FRA.
- **Response Timescales:** We are seeking views whether there should be a statutory timeframe for responses by the FRA to provide further clarity about what is required and when, and if so, what it should be. It is important that FRA responses are timely to ensure their views are taken into consideration in time.
- **Dispute Resolution:** We recognise on occasion that building control bodies and Fire and Rescue Authorities may not agree on whether plans deposited demonstrate compliance because they will be reviewing the plans from the perspective of their different enforcement roles. We are seeking views on whether there are problems with resolving disputes between building control bodies and Fire and Rescue Authorities which could benefit from a mediation panel and, if so, which representative bodies should be involved.
- **Better Guidance:** We want to ensure the best guidance is available to support consultation arrangements. The principle of being able to refer to standing advice produced at the national level for use at the local level, rather than having to develop

specific advice on each occasion could help Fire and Rescue Authorities respond more easily. However, there may be limitations on how effective this could be because of the specific nature of building work. We are interested in whether standing advice for use at the local level would be helpful.

- **Fire Safety Information:** We are seeking views on improving the effectiveness of the current arrangements under the Building Regulations (Regulation 38) that requires fire safety information to be provided to the RP for premises subject to the FSO by the person carrying out the work. We are consulting on whether the scope of application of Regulation 38 should be extended to material alterations. We have also set out options for strengthening the arrangements for ensuring compliance with Regulation 38, as well as any requirements for further guidance on what fire safety information has been handed over.

Next Steps

During the consultation period we will engage with a wide range of external stakeholders including the Fire and Rescue Services, other enforcing authorities, RPs including building owners, managers and dutyholders, residents' groups, existing regulators and other organisations who represent those who have statutory responsibilities under the FSO or are otherwise affected by it.

Introduction

Topics for consideration

This document sets out three key areas for consultation. The proposals included will further deliver the Government's objective to improve building and fire safety in all premises where people live, stay or work. In a number of chapters, we are seeking views from those with experience of the Order in relation to key areas which do not have specific proposals attached. These views will be used to further our understanding of the Order and inform future considerations. For ease of reference we have used a standard question structure throughout this document. The sections are as follows:

- Section 1: Strengthening the Fire Safety Order and improving compliance (for all regulated premises). Proposals in this section will strengthen the Regulatory Reform (Fire Safety) Order 2005⁵ (FSO) and the tools available for enforcing authorities, mainly Fire and Rescue Authorities (FRAs), to drive compliance, leading to greater competence and accountability for those with responsibility for buildings in scope.
- Section 2: Grenfell Tower Inquiry Phase 1 Report recommendations. These call for new requirements to be established in law to ensure the protection of residents in multi-occupied high-rise buildings, with some proposals applying to multi-occupied residential buildings of any height. This section sets out proposals to implement the recommendations in a practical, proportionate and effective manner.
- Section 3: Building control bodies consultation with Fire and Rescue Services. The proposals in this section seek to increase the effectiveness of the arrangements for consultation and information sharing between building control bodies and Fire and Rescue Services in relation to the design and construction stages of a building's lifecycle, and the handover of fire safety information to Responsible Persons under the FSO.

Alignment with the Building Safety Bill

The FSO is the cornerstone of general fire safety legislation, regulating fire safety in non-domestic premises, including workplaces and the non-domestic parts of multi-occupied residential buildings. The FSO imposes fire safety duties on the Responsible Person(s) and adopts a risk-based approach to fire safety requiring RPs to ensure that general fire precautions are in place to remove or mitigate any identified risks. This is often supported by professional advice (e.g. fire risk assessors) as well as a requirement in certain cases to appoint one or more competent persons to assist in undertaking preventative and protective measures under the FSO. The Fire Safety Bill, currently before Parliament, seeks to clarify

⁵ The Fire Safety Order sets out the law for general fire safety within non-domestic premises <http://www.legislation.gov.uk/ukxi/2005/1541/contents/made>

the scope of the FSO (i.e. that the FSO applies to the structure, external walls and individual flat entrance doors of multi-occupied residential blocks). It will also affirm the ability for the Fire and Rescue Service to enforce against non-compliance in relation to these parts of such premises.

The Government is also publishing a draft Building Safety Bill. The draft Bill will put in place an enhanced safety framework for high-rise residential buildings, taking forward the relevant recommendations from Dame Judith Hackitt's Independent Review of Building Regulations and Fire Safety⁶. In the first instance, it is proposed that the new building safety regime applies to high-rise residential buildings of 18 metres and above or more than six storeys (whichever is reached first).

The main elements of the draft building safety legislation will be:

- A new system to oversee the performance of building control functions, with local enforcement agencies and national regulators working together to ensure that the safety of all buildings is improved.
- Clearer accountability for, and stronger duties on, those responsible for the safety of high-rise buildings throughout design, construction and occupation.
- Giving residents a stronger voice in the system, ensuring their concerns are never ignored and they fully understand how they can contribute to maintaining safety in their buildings.
- Stronger enforcement and sanctions to deter non-compliance with the new regime in order to keep buildings safe and hold the right people to account.
- A new stronger and clearer framework to provide national oversight of construction products, to ensure all products meet high performance standards.

Alongside the new measures introduced by the draft Building Safety Bill, both the existing regime under the FSO and the enforcement of standards under the Housing Act 2004, which is assessed using the Housing Health and Safety Rating System (HHSRS), will continue to apply to relevant parts of buildings within the initial scope of the Bill. For example, while the Bill will make provision for structural and fire safety in buildings within its scope, and the FSO will make provision for general fire safety provisions in all regulated buildings, the HHSRS allows local authorities to take a broader set of hazards into consideration than fire alone.

The FSO and the Housing Act 2004 (where appropriate) will continue to apply alongside the Building Safety Bill and the Government intends to address the interaction between the different regimes within buildings in scope of the new building safety regime by ensuring that regulators provide stakeholders with comprehensive operational guidance. This will clarify the different obligations under the relevant regimes and minimise any undue burden on those with responsibilities under the regimes. For example, under the Bill, the Accountable Person will be responsible for managing safety risks in all parts of a residential multi-occupied high-rise building. In most cases, the Accountable Person will be the same person

⁶ <https://www.gov.uk/government/collections/independent-review-of-building-regulations-and-fire-safety-hackitt-review>

as the Responsible Person under the FSO and must demonstrate that they have met both the requirements of both regimes. Where there is not alignment between those with responsibilities within a single premises, such as in a mixed-used building, the Government will introduce duties of cooperation between the RP under the FSO and the Accountable Person(s) under the new regime in order to ensure that the building as a whole is effectively managed.

The proposals included in this consultation will further support this work. These proposed legislative measures will be further supported by guidance which will be provided to assist both Accountable Persons and RPs in coordinating their responsibilities.

About you and your response

These first few questions in the consultation will be about the capacity in which you are responding to the consultation. This information will be used to support analysis and to help us to understand who is responding and the context of their answers.

Please use this section to tell us about yourself. Please note you do not need to provide this information but if you do any personal data provided will be held securely in compliance with data protection legislation and in accordance with the Home Office Personal Information Charter and Privacy Notice.

We have not asked you specifically for any personal data, however the information you choose to provide may constitute personal data. Also, if responding electronically, we will have your IP address and/or your email address. More information on what data we are collecting, why and how it will be looked after can be found here: <https://www.gov.uk/government/consultations/fire-safety>.

Q1. Please select in what capacity you are responding to this consultation. Please select any that apply.

- a) Responsible Person
- b) Dutyholder
- c) Enforcing authority
- d) Resident
- e) Residential group
- f) Local authority
- g) Construction company
- h) Property company
- i) Building resident/tenant
- j) Building Control Body
- k) Trade association
- l) Other

If other, please specify.

Q2. Please indicate whether you are responding as an individual or on behalf of an organisation.

- a) Individual (If yes, move onto question 3)
- b) On behalf of an organisation (If yes, skip to question 4)
- c) Trade body or other representative group of individuals or organisations (If yes, skip to question 5)

Q3. If you are responding as an individual, please specify in what capacity you are responding:

- a) Responsible Person
- b) Dutyholder
- c) Resident
- d) Landlord
- e) Home owner
- f) Employee
- g) Fire safety professional
- h) Other

If other, please specify.

Q4. If you are responding on behalf of an organisation, please provide details of:

a) The name of the organisation you are representing.

b) How many people the organisation employs

- a. Under 10
- b. 10–49
- c. 50–249
- d. 250–999
- e. 1,000 or more

Q5. If you are responding on behalf of a trade body or other representative group of individuals or organisations, please provide:

a) The name of the group

b) Brief description of its objectives

c) Brief description of its membership

d) Number of members

- a. Under 10
- b. 10–49
- c. 50–249
- d. 250–999
- e. 1,000 or more

Section 1: Strengthening the Fire Safety Order and Improving Compliance (for all Regulated Premises)

This section sets out a range of proposals across those areas identified through the Call for Evidence (CfE) on the Regulatory Reform (Fire Safety) Order 2005 (FSO) or other means that require further consideration and action. Where these proposals require legislative change, the intention is to deliver these through secondary legislation under the FSO where appropriate, or where an amendment to the FSO is required, through primary legislation in the draft Building Safety Bill.

1.1 Guidance

Issues

The FSO is a wide and flexible piece of legislation which provides the regulatory framework for a broad range of building types through Responsible Persons (RPs), and others in control of premises – either on their own or with any other RP/dutyholder. In this context, comprehensive, clear and accessible guidance on the FSO has a necessary and a significant role to ensure awareness, compliance and effective enforcement for all those that have statutory responsibilities under the FSO or are otherwise concerned with it, including enforcing authorities. Guidance is therefore critical to the effective application and enforcement of the FSO.

When the FSO came into force in 2006, the Government and others produced and made available a range of guidance⁷ (additional guidance has been issued since as considered necessary). This includes a suite of guides for different categories of premises for RPs and guidance notes to enforcing authorities. Further advice has been published by other public bodies.

In response to the CfE, a common view was that current guidance was out of date, lacked clarity, and was overly complex for non-specialist audiences. Some respondents suggested that the guidance for RPs was too vague and inadequate for their premises.

In light of the responses to the CfE the Government proposes to overhaul the existing suite of guidance. This will include not just Government guidance, but that produced by other organisations with whom we will work with to address the points raised in the CfE. In order to inform Ministers on the best approach to the overhaul, a Guidance Steering Group (GSG) has been established. It includes representatives from the Local Government Association,

⁷ <https://www.gov.uk/workplace-fire-safety-your-responsibilities>

National Fire Chiefs Council, and Welsh Government. At each step of the overhaul process, the GSG will look to engage the widest possible audience to inform Ministers' decisions.

The guidance overhaul will be sequenced to ensure that RPs and enforcing authorities are supported with relevant guidance at each stage where there is legislative change. This will include implementation of the proposed Fire Safety Bill, proposed implementation of the Grenfell Tower Inquiry Phase 1 legislative recommendations, as well as amendments to the FSO arising from this consultation.

The overhaul will also seek to provide additional clarity on the relationship between the FSO and Housing Act 2004. Currently there is an overlap between the two pieces of legislation which has led to a need for clarification as to how each piece of legislation is applied, such as in the context of multi-occupied residential buildings. The existing guidance on fire safety provisions for certain types of buildings has attempted to address the overlap. However, the decision on which enforcing authority (Local Housing Authority or FRSs) has the lead is not always clear.

We propose to review existing government-published guidance as well as sector-led guidance⁸ with a view to update it to reflect recent legislative reform, clarify roles, and better support compliance and enforcement activity. This is to make it easier for RPs and enforcing authorities, and their equivalents under the Housing Act, to understand the interactions between the two regulatory regimes. To do this will involve updating existing guides and producing new guidance.

In light of the Government's decision to overhaul current guidance, we are seeking views on matters relating to the underpinning provisions in the FSO relating to guidance and the form which new or revised guidance should take.

In the FSO there is an obligation for the Secretary of State to ensure that guidance, in so far as they consider it appropriate, is available to RPs to assist them in complying with their duties (Article 50). The Secretary of State will have discharged this duty where appropriate guidance, either directly or through a third party, has been made available. The same obligation does not apply to the Secretary of State in relation to enforcing authorities, although should guidance be issued to them under the Order, enforcing authorities must have regard to it (Article 26).

If a RP has followed the guidance then it is likely they are complying with the FSO, however failure to follow the guidance does not of itself constitute a failure to comply with the FSO.

We also want to explore the suitability of a different approach to guidance, such as using Approved Codes of Practice similar to those that support health and safety legislation and building regulations. These codes have a special legal status and can be expressly considered by the courts if the parent legislation is breached. If it is found that an individual

⁸ <https://www.cieh.org/media/1244/guidance-on-fire-safety-provisions-for-certain-types-of-existing-housing.pdf>

did not follow the Code of Practice and has not complied with the law in some other way they may be found to be at fault.

Questions

Q6. To what extent do you agree that Article 50 is a sufficient basis for providing guidance to RPs to support their compliance with their duties under the Order?

Strongly agree	Tend to Agree	Neither agree nor disagree	Tend to Disagree	Strongly disagree	Don't know

Q7. To what extent do you agree that a strengthened legal basis for guidance under the Fire Safety Order is needed such as a Code of Practice?

Strongly agree	Tend to Agree	Neither agree nor disagree	Tend to Disagree	Strongly disagree	Don't know

Q8: If you agree that a strengthened legal basis for guidance is required, then can you set out which specific areas or issues you think should be covered by an 'Approved Code of Practice'?

- a) Responsible Persons
- b) Enforcement and Sanctions
- c) Fire Risk Assessments
- d) Higher Risk Workplaces
- e) Provision of Information
- f) Other

If 'Other' please outline what other areas should be considered to be covered by a code of practice and why:

Q9: If you do not agree that the legislative basis for guidance needs to change, to what extent do you agree/disagree that the format and style of Codes of Practice (such as the Health & Safety Executive's) should be adopted for any new or revised guidance under the existing provisions within the FSO?

Strongly agree	Tend to Agree	Neither agree nor disagree	Tend to Disagree	Strongly disagree	Don't know

1.2 Responsible Persons

Background

The Responsible Person (RP) is defined in the FSO as a person in control of the premises, which could be the employer, the trade or business occupier, or the owner – or any other person with control. In practice, this may be a landlord, the building manager or managing agent. The RP has a number of fire safety duties, including to:

- carry out a fire risk assessment of the premises and review it regularly;
- take general fire precautions to ensure safety;
- put in place, and maintain, appropriate fire safety measures;
- plan for an emergency;
- provide employees with information on risk, fire safety instruction and training;
- cooperate with other RPs who share or have duties in respect of the same premises and so far as is reasonable, to coordinate fire safety measures; and
- appoint one or more competent person to assist them in undertaking preventative and protective measures, whilst retaining responsibility for ensuring compliance with the Order.

The FSO provides a compliance framework that is proportionate to the specific fire safety risks of different premises; these may be minimal – particularly in small premises – and so the FSO does not stipulate minimum training or competency requirements on a RP, which could be unnecessary. In practice, the RP is expected to self-evaluate whether they can fulfil their statutory duties under the FSO. Where the RP concludes that they are not able to fulfil their duties in full, they may appoint someone to assist them. For certain duties, a RP is required to appoint a competent person as defined under the FSO. However, if they are assisted in the undertaking of such duties, the RP remains accountable for fire safety on the premises at all times.

Issues

The CfE found that most respondents considered the duties for a RP to be sufficient with the principle issue being their identification. This issue is two-fold. Firstly, there are failures by the RP to self-identify through a lack of awareness of the FSO and their incumbent duties. Secondly, there is a challenge for enforcing authorities to identify the relevant RP(s) and dutyholders. Further issues include RPs misunderstanding their duties under the FSO, their ability to evaluate their competence to deliver those duties (self-evaluation) and their subsequent compliance with the FSO (self-compliance) which, if ineffective, compromises themselves as well as fire safety in the premises they control.

Enforcing authorities also cited a number of challenges that can hinder the identification of the RP(s) including:

- the absence of contact details for a RP;
- the RP living abroad and being uncontactable;
- complex management structures for a building; and

- the complexity of contractual arrangements in multi-occupied residential buildings.

These can, in turn, undermine the speed and effectiveness of inspections, enforcement action and any prosecutions.

Buildings with more than one RP

Any two or more persons sharing responsibilities in respect of shared premises or different premises within a building are required by the FSO to co-operate and co-ordinate with each other (Article 22). Difficulties were highlighted in relation to the extent to which RPs understand and discharge this duty, and how enforcing authorities can evidence against non-compliance with the duty.

The creation of the Accountable Person and the Building Safety Manager in the draft Building Safety Bill for buildings in scope of the new regime⁹ further highlights the need for cooperation and coordination across regimes in a single building. In addition, it must be clear that enforcing authorities have the ability to hold to account those failing in this duty for buildings where both the FSO and draft Building Safety Bill will apply. The FSO already requires co-operation and co-ordination between RPs in the same premises with breach of the duty a criminal offence where failure places one or more relevant persons at risk of death or serious injury in case of fire.

Fire Safety Training

Views were divided on whether the current requirements for the provision of fire safety training to employees were sufficient. A number of responses to the CfE called for clarification of the term “adequate”, owing to concerns over the quality of training on offer and to provide greater prescription and clarity on what training should consist of, the regularity of training and assessment of fire safety training outcomes.

Proposals

Proposal 1: To help the identification of RPs and promote their self-identification, the Government proposes amending the FSO to require all RPs to record (and as necessary update) who they are, the extent of their responsibility under the Order, and their contact information. Where this information is recorded is dependent on the outcome of **Proposal 5** (see Chapter 1.3) which proposes that all RPs be required to record their fire risk assessments. RP information could either be included as part of the prescribed information that is currently required to be recorded under Article 9(7) of the FSO (in certain circumstances) or as part of the fire risk assessment.

⁹ Initially proposed to be multi-occupied residential buildings that are 18 metres or more in height or over six storeys (whichever is reached first).

We are also seeking views on whether the information RPs are required to provide should include a UK based contact address. This also reflects a requirement in the draft Building Safety Bill to require Accountable Persons to have a UK based address.

Proposal 2: To ensure a whole building approach to the management of fire safety where responsibility is shared, the Government proposes to amend the FSO and establish a new requirement under Article 22 of the FSO on all RPs to identify themselves to all other RPs (and where applicable Accountable Persons and/or Building Safety Managers as proposed under the Building Safety Bill) where they share or have duties in respect of the same premises.

To support this proposal, the draft Building Safety Bill is seeking to amend Article 22 of the FSO to require RPs to cooperate with the Accountable Person(s) and places a reciprocal requirement on the Accountable Person. This intends to ensure that the fire safety of the building, as a whole, is effectively managed.

Guidance: Simplified and clear guidance will also target specific issues – how a RP self-identifies, how they comply with the duty to coordinate and cooperate, the duties placed on the RP in relation to dangerous substances and the provision of training to employees. Guidance will also be made available to enforcing authorities on how to identify an RP and provide clarity on the definition of the RP.

Questions

Q10. To what extent do you agree that a requirement for RPs to record who they are, the extent of their responsibility under the FSO, and their contact information will facilitate the identification of RPs?

Strongly agree	Tend to Agree	Neither agree nor disagree	Tend to Disagree	Strongly disagree	Don't know

Q11. To what extent do you agree that the requirements set out in proposal 1 be extended to others that have control of the premises, such as dutyholders?

Strongly agree	Tend to Agree	Neither agree nor disagree	Tend to Disagree	Strongly disagree	Don't know

Q12. To what extent do you agree that the information the RP is required to record should include a UK based contact address?

Strongly agree	Tend to Agree	Neither agree nor disagree	Tend to Disagree	Strongly disagree	Don't know

Q13. To what extent do you agree that the duty to cooperate and coordinate (Article 22) should be amended to include a requirement for RPs to take steps to identify themselves to all other RPs (and where applicable Accountable Persons and/or Building Safety Managers as proposed under the Building Safety Bill) where they share or have duties in respect of the same premises.

Strongly agree	Tend to Agree	Neither agree nor disagree	Tend to Disagree	Strongly disagree	Don't know

Q14. Do you have any other comments to further support your answers above?

1.3 Quality of Fire Risk Assessments

Background

Having a clear understanding of the risk that fire could cause in a premises enables the appropriate fire safety arrangements to be put in place to protect lives. Risk varies depending on circumstances and does not lend itself to being managed in a one-size-fits-all way. Adequately managing the risk from fire means considering a bespoke approach, based on the individual circumstances of the premises.

The FSO requires a RP to carry out a suitable and sufficient assessment of the risks – a fire risk assessment - to which relevant persons are exposed for the purpose of identifying the general fire precautions that need to be taken. The fire risk assessment must be regularly reviewed to keep it up to date. The FSO prescribes certain information that must be recorded in specific circumstances following the completion of a fire risk assessment.

The FSO generally requires a RP to appoint a competent person, being someone who has sufficient training and experience, or knowledge and other qualities, to assist them in undertaking preventative and protective measures. The assessment of competence will depend on the circumstances.

Issues

Respondents to the CfE deemed the ‘competent person’ requirements in the FSO to be insufficient and lacking in clarity in relation to qualifications, training and experience required with limited benchmarking of competence. Although the FSO was drafted to be proportionate to different premises and levels of risk identified, some individuals with responsibilities under the FSO do not fall within the definition of a competent person, contrary to the understanding of many respondents, and are therefore not required to have a recognised level of experience. Such individuals include fire risk assessors and other fire safety professionals

who support the RP in undertaking fire risk assessments without any requirement for competence. This may compromise fire safety.

The variable quality of fire risk assessments was highlighted by respondents to the CfE, who questioned whether this was a consequence of a lack of competence of those who completed fire risk assessments, limited guidance available or a combination of both. Clarity on what a fire risk assessment should include was also called for, along with suggestions of greater prescription for its contents. The intention behind the five-employee threshold for the recording of prescribed information was also questioned.

Short of needing to update a fire risk assessment when it is no longer valid or there has been a significant change to the premises, respondents flagged the ambiguity of the term “regular” in the requirement for fire risk assessments to be regularly reviewed. There is a risk that additional prescription in relation to the timeframe for review could place an unnecessary burden on RP’s where this is too frequent and could conversely jeopardise the fire safety of premises where the timeframe is not frequent enough. Instead, in line with the approach used throughout the FSO, it is proposed that guidance will be used to provide additional information to RPs to support their understanding and compliance in this area. Further work on the sufficiency of provisions in the FSO in relation to higher risk workplace buildings is also planned and this may give rise to additional legislation in this area (see Chapter 1.7).

Although the Fire Safety Bill is intended to clarify the scope of the FSO, the Government acknowledges that not all RPs for multi-occupied residential buildings will currently have an up-to-date fire risk assessment which includes the building’s structure, external walls, balconies and flat entrance doors. Capacity issues for the fire risk assessor sector as well as other building safety professionals such as fire engineers, building surveyors and architects are acknowledged.

The Home Office has established a new Task and Finish Group made up of building owners, local authorities, representatives from the fire sector, the National Fire Chiefs Council and Fire and Rescue Services to seek their views on the most appropriate way to commence the Bill’s provisions, and how to address potential capacity and capability issues within the fire sector.

There has also been significant work undertaken within the MHCLG-led Building Safety Programme by the industry-led Competency Steering Group¹⁰ (CSG) and in particular its sub-working group on fire risk assessors to look at ways to increase competence in the industry, which proposes recommendations in relation to third party accreditation and a competence framework for fire risk assessors. The final report from CSG will be published shortly, and the Government will be considering the recommendations of the report in detail.

¹⁰ CSG is an industry-led group established to develop proposals for oversight of competence and increased competence in key disciplines across design, construction, inspection, maintenance and management of buildings. (Source: Government response to ‘Building a Safer Future’)

Proposals

Proposal 3: The Government proposes to amend the FSO to require that any person engaged by the RP to undertake all or any part of the fire risk assessment must be competent.

Proposal 4: Where an individual is engaged by the RP to undertake any or all of the fire risk assessment, the Government proposes to make it a statutory requirement that their name and contact information are recorded within the completed fire risk assessment.

This will enable better identification of those accountable for completion of fire risk assessments as well as facilitating enforcing authorities when assessing and enforcing against non-compliance with the Order.

Proposal 5: To ensure a consistent approach is taken to fire safety across all premises regulated by the Order, the Government proposes to require all RPs to record their fire risk assessments. This will:

- replace the current requirement to only record specific prescribed information; and
- remove current requirements that the RP must record the information prescribed by Article 9(7) only where:
 - he employs five or more employees;
 - a licence under an enactment is in force in relation to the premises; or
 - an alterations notice requiring this is in force in relation to the premises.

We would also require all RPs to record their fire safety arrangements. Therefore, we would seek to remove the requirement that only certain RPs must record their fire safety arrangements (Article 11).

Guidance: To note that further support for RPs in their understanding and compliance with the proposed new duties set out below will be provided through guidance. We propose this guidance:

- a) provides sufficient detail for those completing fire risk assessments to support the development of high-quality fire risk assessments;
- b) supports RPs to appoint competent persons, including fire risk assessors and others, to help them deliver their duties;
- c) clarifies the legal duty for RPs to regularly review their fire risk assessments and will support RPs in determining what regular means to them; and
- d) supports RPs in complying with the requirement to record their fire risk assessments.

Questions

Q15. To what extent do you agree that the FSO should include a competency requirement for fire risk assessors and other fire professionals engaged by the RPs?

Strongly agree	Tend to Agree	Neither agree nor disagree	Tend to Disagree	Strongly disagree	Don't know

Q16. To what extent do you agree that the name and contact information of an individual engaged by the RPs to undertake any or all of the fire risk assessment, should be recorded within the completed fire risk assessment.

Strongly agree	Tend to Agree	Neither agree nor disagree	Tend to Disagree	Strongly disagree	Don't know

Q17. Please set out any further information you think fire risk assessments should include.

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Q.18 To what extent do you agree that a duty should be placed on all RPs to record their completed fire risk assessments?

Strongly agree	Tend to Agree	Neither agree nor disagree	Tend to Disagree	Strongly disagree	Don't know

Q19. To what extent do you agree that all RPs should be required to record their fire safety arrangements (Article 11)?

Strongly agree	Tend to Agree	Neither agree nor disagree	Tend to Disagree	Strongly disagree	Don't know

Q20. Do you have any other comments to further support your answers above?

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1.4 Provision of Information

Issue

The FSO currently places a duty on RPs to provide employees and contractors with relevant information on risk identified in the fire risk assessment and details of preventative and protective measures taken in their workplace (Articles 19 and 20). However, the FSO does not currently require that equivalent information be provided to relevant persons except if they are exposed to a serious and imminent danger (Article 15). Under the FSO, the term 'relevant persons' is defined as any person who is or may be lawfully on the premises and any person in the immediate vicinity of the premises who is at risk from a fire on the premises. This includes residents in multi-occupied residential buildings.

The proposed Building Safety Bill proposes an entirely new regulatory system for buildings that are within its scope, with residents at the heart of its proposals. It proposes including duties for Accountable Persons, for buildings in scope of the new regime, to proactively provide residents with information, make more detailed information available to residents upon request and proactively engage with residents via a Resident Engagement Strategy.

Although not explicitly addressed through the CfE process, the Government is considering how to enhance the provision of information to residents of multi-occupied residential buildings to which the FSO applies. The related proposals in this chapter also align with the Grenfell Tower Public Inquiry's Phase 1 report recommendations (addressed in Section 2 of this consultation), specifically the proposal for the building owner/manager to share specific information with residents in relation to evacuation procedures.

Under the Government's building safety reforms, it is proposed that key information should be preserved through a building's lifecycle as ownership changes. This raises the issue of whether there should be a similar requirement for premises or parts of premises regulated by the FSO (and out of scope of the draft Building Safety Bill), to pass information between successive RPs, including persons with responsibility of the premises. The retention and forwarding of relevant fire safety information to successive RPs will enhance RP's understanding of the building, the fire safety risks and the measure that have been previously put in place. We are seeking views on what information should be provided as part of this process.

Proposals

Proposal 6: To enhance the provision of information, the Government proposes requiring RPs to take reasonable steps to provide comprehensible and relevant information to residents (as relevant persons) in multi-occupied residential buildings which should include, but is not limited to, the following:

- a) The risks to them identified by the fire risk assessment;
- b) The preventative and protective measures in place to mitigate potential fire risk;

c) The role and responsibilities of relevant RPs, and dutyholders, including their name, capacity and contact details. This will seek to ensure all residents have a point of contact to whom they can raise concerns and request the fire safety information they need to be safe in their homes and on the premises; and

d) The Fire Risk Assessment (available on request).

Proposal 7: To ensure the preservation of fire safety information over a building’s lifetime, the Government proposes requiring RPs to take steps to share all relevant fire safety information with subsequent RPs. This will complement the ‘golden thread’ provisions proposed in the draft Building Safety Bill and maintain a clear thread of information central to ensuring the fire safety across the entirety of a building’s lifetime.

Guidance: To support the delivery and operationalisation of these proposals, guidance will be developed to assist RPs in deciding the best approach to ensuring successive RPs have access to the information they need to comply with their duties, and relevant persons (including residents) have access to the information they need to be safe.

Questions

Q21. To what extent do you agree that a new requirement should be placed on RPs to provide information to specific relevant persons (residents) on fire safety in multi-occupied residential buildings (excluding individual flats/private dwellings) in which they reside?

Strongly agree	Tend to Agree	Neither agree nor disagree	Tend to Disagree	Strongly disagree	Don't know

Q22. To what extent do you agree that a new requirement should be placed on RPs to take steps to provide the following information to residents in multi-occupied residential buildings:

a) Information on the risks identified by the fire risk assessment;

Strongly agree	Tend to Agree	Neither agree nor disagree	Tend to Disagree	Strongly disagree	Don't know

b) The preventative and protective measures in place to mitigate potential fire risk;

Strongly agree	Tend to Agree	Neither agree nor disagree	Tend to Disagree	Strongly disagree	Don't know

c) The role and responsibilities of relevant RPs and dutyholders, including their name and contact details; and

Strongly agree	Tend to Agree	Neither agree nor disagree	Tend to Disagree	Strongly disagree	Don't know

d) The Fire Risk Assessment (available on request).

Strongly agree	Tend to Agree	Neither agree nor disagree	Tend to Disagree	Strongly disagree	Don't know

Q23. Please note any comments you have on whether the information outlined above should be provided to specific relevant persons (residents).

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Q24. What other information, if any, should RPs be required to provide specific relevant persons (residents)?

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Q25. The intention of proposal 6 is to provide information to residents of all multi-occupied residential buildings subject to the FSO. To what extent do you agree that this information should be available on request to other 'relevant persons'¹¹ within:

a) multi-occupied residential buildings covered by the Order

Strongly agree	Tend to Agree	Neither agree nor disagree	Tend to Disagree	Strongly disagree	Don't know

b) all buildings covered by the Order

Strongly agree	Tend to Agree	Neither agree nor disagree	Tend to Disagree	Strongly disagree	Don't know

¹¹ Under the FSO, a relevant person is defined as any person who is or may be lawfully on the premises and any person in the immediate vicinity of the premises who is at risk from a fire on the premises.

Q26. Please note any additional information to support your answer to Question 25.

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Q27. To what extent do you agree that a new requirement should be placed on RPs to take steps to share all relevant fire safety information with subsequent RPs?

Strongly agree	Tend to Agree	Neither agree nor disagree	Tend to Disagree	Strongly disagree	Don't know

Q.28. In addition to fire risk assessments, is there any other information that should be shared between successive RPs?

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Q29. Please note any other gaps in the FSO in relation to the provision of information and how they could be addressed.

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Q30. Do you have any other comments to further support your answers above?

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1.5 Enforcement and Sanctions

Issue

Fire and Rescue Authorities are the enforcing authorities for the majority of premises to which the FSO applies¹². The Fire and Rescue National Framework for England requires each Fire and Rescue Authority to have a locally determined, risk-based inspection programme and management strategy in place to ensure compliance with the FSO within its area.¹³

Under the FSO, the powers of inspectors enable them to enter premises (without force) to carry out an audit, identify the RP in relation to the premises, establish whether the FSO has

¹² The Health and Safety Executive, the Local Authority, The Ministry of Defence Fire Services and a fire inspector or any person authorised by the Secretary of State all have enforcement responsibilities under the Fire Safety Order.

¹³ https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/705060/National_Framework_-_final_for_web.pdf

been complied with and to decide whether to take enforcement action and/or prosecute a RP or any other person for noncompliance with the FSO. There are a range of enforcement actions that an enforcing authority can take, including to serve an alterations notice, enforcement notice or prohibition notice.

Article 32 of the FSO stipulates the offences to which a RP or any dutyholders can be prosecuted. The maximum penalty on summary conviction for criminal offences under the FSO is an unlimited fine and, for more serious offences, in the Crown Court an unlimited fine or imprisonment for up to two years, or both.

The CfE responses indicated that the FSO's enforcement provisions and sanctions were generally satisfactory. Respondents did cite barriers that were considered to have prevented the effective use of the FSO's enforcement powers and a lack of resources was highlighted within the HMICFRS report¹⁴. Other issues mentioned were a lack of cohesive guidance, overlapping regulatory frameworks and a perceived lack of resources.

Guidance to support the enforcement of the FSO will be included as part of the guidance overhaul. The guidance will not dictate how enforcement action should be undertaken but will clarify the scope of enforcing authorities' powers to ensure enforcement action is consistent with established regulatory best practice, such as the Regulators' Code¹⁵. The need for guidance was apparent from responses to the FSO CfE and supported by National Fire Chiefs Council.

Although no specific legal changes to the FSO were identified through the CfE process, we are looking at the sufficiency of the level of fines for specific offences.

When a RP has been convicted of an offence under the FSO for which a fine may be imposed, the maximum fine is set out in Article 32 of the FSO. Most of the offences attract a level 5 fine which is unlimited, though the court will determine the appropriate fine based on the circumstances of the case. Only three offences under the FSO do not carry a level 5 fine; a person is liable to a level 3 fine (which carries a maximum penalty of £1,000) on summary conviction, where they have:

1. Failed to comply with any requirements imposed by an Inspector during the course of their investigation (including, but not limited to, providing the Inspector with the facilities and assistance they require to exercise their powers¹⁶);
2. Impersonated an Inspector with intent to deceive; and

¹⁴

The HM Inspectorate of Constabulary and Fire & Rescue Services work with the Home Office and independently assesses the effectiveness and efficiency of police forces and fire & rescue services. <https://www.justiceinspectors.gov.uk/hmicfrs/publications/state-of-fire-and-rescue-annual-assessment-2019/>

¹⁵ Further information regarding the Regulators' Code can be found at: <https://www.gov.uk/government/publications/regulators-code>

¹⁶ Article 27 (1c & 1d) sets out in full the duties to which this offence applies: <http://www.legislation.gov.uk/ukxi/2005/1541/article/27/made>

3. Failed to comply with requirements relating to the installation of fire-fighter switches for luminous tube signs.

There is a concern that the severity of the Level 3 (£1,000) fine is no longer a suitable deterrent or penalty. This can make it difficult for inspectors when they request information or require assistance under Article 27. In addition, the draft Building Safety Bill is proposing a level 5 (unlimited) fine for impersonating an enforcement officer.

We are seeking views on the adequacy of the Level 3 fine for breach of the provisions set out above and whether the level of fine should be increased to either level 4 (£2,500) or level 5 (unlimited).

Questions

Q31. To what extent do you agree that a level 3 fine (£1,000) provides a suitable deterrent and carries a suitable financial penalty?

Strongly agree	Tend to Agree	Neither agree nor disagree	Tend to Disagree	Strongly disagree	Don't know

Q32. To what extent do you agree that a level 4 fine (£2,500) would provide a suitable deterrent and carry a suitable financial penalty?

Strongly agree	Tend to Agree	Neither agree nor disagree	Tend to Disagree	Strongly disagree	Don't know

Q33. To what extent do you agree that a level 5 fine (unlimited) would provide a suitable deterrent and carry a suitable financial penalty?

Strongly agree	Tend to Agree	Neither agree nor disagree	Tend to Disagree	Strongly disagree	Don't know

Q34. Do you have any other comments to further support your answers above?

1.6 Maintenance, including the role of residents

Issue

Any premises subject to the Building Regulations 2010 is required by law to have reasonable facilities installed that will safeguard the building's "relevant persons." In addition to this, the Building Regulations also require the installation of facilities that will safeguard fire-fighters in the event of a fire. The FSO places duties on the RP to ensure that these facilities are suitably maintained. These duties are covered under Articles 17 and 38.

Article 17

Under the FSO, the RP must ensure that the premises (and any facilities, equipment and devices provided in respect of the premises¹⁷) are subject to a suitable system of maintenance and are maintained in an efficient state, in efficient working order and in good repair in order to safeguard the safety of relevant persons.

The provision does not define 'maintain' nor expressly provide for replacement of any 'facilities, equipment or devices', including substandard fire doors. The RP may make arrangements with the occupier of any other premises forming part of the building to ensure the RP discharges this duty and the occupier must co-operate with the RP.

The Government wants to explore the effectiveness of Article 17 and consider if it – and/or relevant provisions relating to general fire precautions (informed by the principles of prevention referred to in Article 10¹⁸) – need to be strengthened to ensure that the safety of relevant persons. We want to establish whether there is sufficient distinction between the requirement to have a maintenance regime in place (such as routine inspection and testing) and the requirement to ensure that premises – including the general fire precautions that have been put in place - are kept in 'an efficient state, in efficient working order and in good repair'. We want to ensure that the Order sufficiently provides for the replacement of defective facilities, equipment and devices including fire doors.

We also wish to examine how the duty to co-operate in Article 17(4) is enforced. There is no direct offence associated with a failure by the occupier of private domestic premises to co-operate with a RP and to date reliance is placed on the terms of any lease or tenancy agreements allowing access to the owner or Landlord (potentially the RP) to enable them to maintain any fire safety provisions extending from the common parts to the domestic premises.

The draft Building Safety Bill proposes specific duties on residents in multi-occupied residential premises subject to the new regime. These include keeping in repair and proper working order any electrical or gas installation or appliance that is in the resident's home or

¹⁷ This includes any facilities etc which have been provided under Building Regulations, the Housing Act 2004 or other legislation

¹⁸ Article 10 sets out that where the RP implements any preventive and protective measures he must do so on the basis of the principles specified in part 3 of Schedule 1.

is in premises occupied or controlled by them and for which they are responsible. There is also a proposed duty on residents to take reasonable care to avoid damaging relevant fire safety items, such as fire extinguishers or smoke alarms, that are in or form part of the common parts of such premises and are intended to mitigate the building safety risk of persons in or about the building. Such risk is proposed to include fire, structural failure or any other prescribed matter. It is proposed that the Accountable Person should be able to issue notices to residents failing to comply with these duties. Consideration is also being given to whether the duty to avoid damaging relevant safety items should also apply where they are situated inside individual dwellings and whether the occupier should be required to notify the Accountable Person of any work that may penetrate the compartmentation of the flat.

For multi-occupied residential premises outside of the scope of the draft Building Safety Bill, we are seeking views on whether similar duties to those proposed in the Bill, but for fire safety risk, (rather than building safety risk), should also be imposed under the FSO on residents in these buildings. Such duties could cover facilities, equipment and devices provided to safeguard relevant persons which cross over into domestic premises such as a whole building fire alarm system or sprinkler system. We are also interested in views on the role of the occupier in maintaining the compartmentation of the domestic premises in these buildings. For example, we are seeking views on whether there should be a requirement to notify the RP of any proposed changes that may compromise compartmentation such as changing a flat entrance door but not replacing it with a suitably fire-resisting and self-closing door or by making alterations that are detrimental to fire safety such as a penetration between flats or between a flat and the non-domestic parts.

Article 38

The purpose of this article is to ensure the safety of fire-fighters in the event of a fire.

Under Article 38 the RP is required to ensure the premises and any facilities, equipment and devices provided within for the use by or the protection of fire-fighters are subject to a system of maintenance and are maintained. The duties on the RP and the duty on the occupier (of other premises that form part of the building) to cooperate mirror those set out in Article 17 described above.

In a similar way to Article 17, we are seeking views on the effectiveness of Article 38.

Questions

The questions below seek views about both Article 17 and 38 in a similar way though they are kept separate in the event that respondents wish to raise different issues.

Q35. To what extent do you agree that Article 17 makes sufficient provision for ensuring that premises and any facilities etc are subject to a system of maintenance and are maintained to an appropriate standard for the safety of relevant persons?

Strongly agree	Tend to Agree	Neither agree nor disagree	Tend to Disagree	Strongly disagree	Don't know

Q36. To what extent do you agree that the FSO sufficiently provides for the replacement of defective or substandard facilities, equipment and devices including fire doors?

Strongly agree	Tend to Agree	Neither agree nor disagree	Tend to Disagree	Strongly disagree	Don't know

Q37. To what extent do you agree that Article 17 is effective in ensuring the occupier (of parts of a building to which the FSO does not apply) co-operates with the RP?

Strongly agree	Tend to Agree	Neither agree nor disagree	Tend to Disagree	Strongly disagree	Don't know

Q38. To what extent do you think that the occupier (of residential parts of a building to which the FSO does not apply) in buildings out of scope of the new regime should be under duties similar (in relation to fire safety) to those being considered under the Building Safety Bill?

Strongly agree	Tend to Agree	Neither agree nor disagree	Tend to Disagree	Strongly disagree	Don't know

Q39. To what extent do you agree that the powers of enforcement available to Fire and Rescue Authorities are effective in ensuring remediation for breaches of Article 17?

Strongly agree	Tend to Agree	Neither agree nor disagree	Tend to Disagree	Strongly disagree	Don't know

Q40. Do you have any other comments to further support your answers above?

Q41. To what extent do you agree that Article 38 makes sufficient provision for ensuring that premises and any facilities etc are subject to a system of maintenance and are maintained to an appropriate standard for the safety of fire-fighters?

Strongly agree	Tend to Agree	Neither agree nor disagree	Tend to Disagree	Strongly disagree	Don't know

Q42. To what extent do you agree that Article 38 is effective in ensuring that the occupier (of parts of a building to which the FSO does not apply) co-operates with the Responsible Person?

Strongly agree	Tend to Agree	Neither agree nor disagree	Tend to Disagree	Strongly disagree	Don't know

Q43. To what extent do you agree that the powers of enforcement available to Fire and Rescue Authorities are effective in ensuring remediation for breaches of Article 38?

Strongly agree	Tend to Agree	Neither agree nor disagree	Tend to Disagree	Strongly disagree	Don't know

Q44. Do you have any other comments to further support your answers above?

1.7 Higher Risk Workplaces

Issue

The CfE sought views on the specific issues of regulating fire safety risk in workplaces. Home Office analysis, included in the CfE, indicated that there were four building types where the rates of fire, fire-related fatalities and casualties requiring hospital treatment were highest¹⁹, and which provide accommodation for multiple people to sleep. These building types are: prisons; hospitals; sheltered and supported housing; and residential educational buildings. For more detail please see the release setting out detailed statistics on fires

¹⁹ Fire risk profiles were determined by rates of fires, fire-related fatalities and casualties requiring hospital treatment in different types of buildings, given as per 1,000 buildings.

attended by Fire and Rescue Services across England, and fire-related fatalities and non-fatal casualties in those fires²⁰.

The FSO is often referred to as workplace legislation. However, as well as requiring RPs to ensure the safety of their employees from fire in their places of work, the FSO also requires RPs to ensure premises are safe (from fire) in relation to relevant persons who are not his employees, namely those persons lawfully on the premises and in its immediate vicinity. There will often be a mix of people in any regulated premises for different purposes. Examples include where some people work while other people sleep or have temporary accommodation such as hotels (as guests), hospitals (as patients) or care homes (as residents). There are other premises which are more challenging to determine their status as a workplace, for example, when services are provided in someone's home.

The CfE sought views in relation to what other types of buildings, subject to the FSO, might – as a result of their use – also present the potential for catastrophic incidents that could cause multiple fatalities or casualties requiring hospital treatment. Both the CfE and the Building A Safer Future consultation²¹ sought evidence and views in relation to these categories of workplace buildings. We also consulted on what factors should determine whether a building type is a “higher risk workplace building” in relation to fire safety in occupation, and asked respondents to note any types of buildings within these categories that were of a particular concern. While some respondents agreed with the proposed categories and some suggested additional categories (e.g. care homes, hotels or heritage buildings), there was no clear consensus on which buildings should be considered as higher risk or which risk factors should be considered.

The proposals set out in this consultation document to strengthen aspects of the FSO and review supporting guidance will generally ensure greater rigour around all buildings regulated by the FSO. In an effort to encourage RPs to consider the level of risk in their building, and the factors that might indicate increased risk, we will also consider what additional guidance a RP will need to support their understanding of their role in relation to complex buildings, such as higher risk workplaces.

The initial scope for the proposed reforms in the draft Building Safety Bill will apply to all multi-occupied residential buildings of 18 metres or more and/or more than six storeys (whichever is reached first). However, the Government has taken a power in the Bill to extend the scope of the regime further overtime to take account of any findings from the Government research and evidence gathering on fire safety risk prioritisation and ongoing intelligence from the Building Safety Regulator²².

²⁰ <https://www.gov.uk/government/statistics/detailed-analysis-of-fires-attended-by-fire-and-rescue-services-england-april-2018-to-march-2019>

²¹ <https://www.gov.uk/government/consultations/building-a-safer-future-proposals-for-reform-of-the-building-safety-regulatory-system>

²² The Regulator will provide enhanced oversight of the building safety regulatory system – it will have the ability to make recommendations based on analysing the data from the operating regime, the existing evidence base and any new research evidence.

Any proposed extension of scope of the new regime in the future will be undertaken in consultation with the Regulator and other appropriate persons. The role of the Regulator is to oversee the enforcement of the new, more stringent building safety regulatory regime for buildings within scope, oversee the competence of professionals and trades working on buildings as well as building safety and the wider regulatory system as a whole. The draft Building Safety Bill proposes to give the Regulator a duty to advise the Secretary of State on amending the scope beyond the day one position (i.e. what buildings, if any, should be subject to the new reforms in the future).

The FSO already provides a flexible legal framework within which fire risks are assessed, tailored to specific premises, to ensure the safety of employees and other relevant persons. It is generally non-prescriptive. There are also examples where further provisions have been introduced by regulations under Article 24 of the Order to impose precautions on specific premises. One such example is The Fire Precautions (Sub-surface Railway Stations) (England) Regulations 2009²³, which set out the specific requirements as to fire precautions at sub-surface railway stations.

In the context of workplaces – as described above - it is also noteworthy that some of the higher risk workplace buildings have their own enforcing authority, guidance, and/or inspection framework. For example, the responsibility for inspecting fire safety in prisons rests with the Crown Premise Fire Safety Inspectorate. Hospitals and care homes are subject to monitoring, inspection and regulation by the Care Quality Commission in relation to health and social care services.

Sector-led work to improve fire safety in higher risk workplace buildings is also on-going. These include several local working agreements between FRAs and Local Authorities, which support better cooperation and coordination between separate regulatory bodies. In practice, these translate into combined visits, jointly delivered fire safety training, local monitoring scheme for those premises with a known, higher risk, information sharing, or risk-based inspection programme informed by local knowledge.

Memoranda of Understanding represent another non-legislative way to enhance fire safety in higher risk workplace buildings through joint working. Currently a Memorandum of Understanding is being developed by the National Fire Chiefs Council and the Care Quality Commission (CQC) in relation to fire safety in care homes. This document will set out the framework to support the working relationship between CQC and National Fire Chiefs Council to safeguard those who are receiving care in England.

Where the evidence justifies it, we will consider using Article 24 to make regulations to require additional fire precautions for these higher risk premises. Building on what we have heard from the CfE, we are seeking further evidence to inform decision making.

²³ <http://www.legislation.gov.uk/ukxi/2009/782/contents/made>

Questions

Q45. What risk factors are of most concern to you in higher risk workplaces (such as prisons, hospitals, sheltered and supported housing, residential educational buildings, care homes) and why? For example:

- a) Occupancy (who is on the premises: children, patients, the elderly, etc.);
- b) Use of premises (what activity is carried out);
- c) Existing fire strategy;
- d) Design and construction of the building (e.g., layout, materials, size, etc.);
- e) Other – please specify.

Q46. What additional fire precautions requirements – over and above those already required under the Order – should apply to higher risk workplaces to increase fire safety?

- a) Provision and maintenance of means of escape;
- b) Provision and maintenance of firefighting systems;
- c) Provision of employee training on fire safety;
- d) Provision of sufficient employees present on the premises to ensure means of escape can be safely and effectively used all times;
- e) Annual review of the fire risk assessment;
- f) Record keeping demonstrating the specific requirements;
- g) Other – please specify.

Q47. Based on the above, please also indicate what specific requirements should apply to what type of higher risk workplace building:

Q48. Do you have any other comments?

1.8 Fees and Charges

In her Independent Review of Building Regulations and Fire Safety, Dame Judith Hackitt recommended that regulatory functions under the new building safety regime should be fully cost recoverable highlighting that this is ‘a proportionate approach where those whose work needs the highest level of intervention and oversight should pay the highest cost.’²⁴ This is a similar model to the Control of Major Accident Hazards regulatory regime operated by the Health and Safety Executive (HSE). The Fire and Rescue Services Act (FRSA) 2004 currently prohibits FRAs from charging for action taken in their capacity as enforcing authorities under the FSO.

The FSO will continue to apply as it currently does alongside the proposed provisions in the draft Building Safety Bill for a new enhanced regime for High Rise Residential Buildings (HRRBs). This will create a situation where enforcement activity undertaken through the proposed new Building Safety Regulator in a high-rise residential block is likely to be chargeable whereas enforcement activity pursued under the FSO in the non-domestic parts of the same premises would not be.

In light of the proposals on charging under the draft Building Safety Bill, we would like to revisit whether the current FRSA 2004 prohibition on charging for enforcement activity under the FSO should be removed either solely for buildings in scope of the new building safety regime or for all premises that fall within the scope of the FSO. We also want to understand whether central charging guidance to encourage best practice is required. Section 18A of the FRSA 2004 provides discretion for FRAs to charge subject to the existing restrictions on charging, so we want to understand FRAs’ level of appetite to charge, levels of charging they would be seeking and whether and how cost recovery would encourage greater compliance with the FSO.

FRAs apply a risk-based approach to audits/inspections under the FSO, which focuses on targeting activity in relation to non-domestic premises where the life safety and fire risk is greatest. The focus of audits on building type can differ depending on the local area for each FRA. For context, 33% of audits carried out by FRSs have an unsatisfactory outcome²⁵. An unsatisfactory audit is where non-compliance with the FSO is identified.

When an audit outcome is ‘unsatisfactory’ and the RP is willing to comply, agreed action plans known as ‘informal notifications’ (essentially informal action without legal basis) may be issued. There were 14,514 informal notifications in 2018/19. Formal notices are issued in the most serious of cases where either less formal action has failed to resolve issues of

²⁴https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/707785/Building_a_Safer_Future_-_web.pdf

²⁵ All figures referenced on audits, informal and formal notifications/notices are from ‘Fire prevention and protection statistics, England, April 2018 to March 2019’
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/836909/fire-prevention-protection-1819-hosb2319.pdf

non-compliance, or where the case is serious enough to justify moving straight to a formal notice in the first instance. These include alteration, enforcement and prohibition notices.

An enforcement notice is served on the RP or dutyholder if they have failed to comply with the FSO and may include directions on what FRAs consider is necessary to remedy the compliance failure. An alterations notice may be served by an FRA in relation to a premises constituting a serious risk (or premises which would constitute a serious risk if any change is made to them). This alerts the FRA to any potential problems and allows an intervention before changes are made which significantly increase the risk. A prohibition notice is issued where premises involve or will involve a risk, so serious that use of the premises ought to be prohibited or restricted. There were 2,390 formal notices in 2018/19. The latter comprised 1,479 enforcement notices, 775 prohibition notices, 91 alteration notices and 45 prosecutions²⁶.

Amongst the types of buildings that had the highest number of formal notices were care homes, hotels, shops, licensed premises and purpose-built flats between four and ten storeys (11–30 metres).

Proposal

Proposal 8: To remove the provisions under the FRSA 2004 which prohibit FRAs from charging for action taken in their capacity as enforcing authorities under the FSO – both to align where relevant with the draft Building Safety Bill but also in relation to all action taken in FRAs capacity as enforcing authorities under the FSO.

Specifically, we also want to seek views in relation to levels of charging and FRAs’ level of appetite to charge. We are also seeking evidence and insight on how cost recovery would encourage greater compliance with the FSO.

Questions

Q49. To what extent do you agree that the current provisions for prohibition of charging within s.18B(8) of the Fire and Rescue Services Act 2004 should be removed to align with the proposed approach to charging for enforcement action in the Building Safety Bill (the starting scope of the regime is proposed as HRRBs of 18 metres or more in height, or more than six storeys)?

Strongly agree	Tend to Agree	Neither agree nor disagree	Tend to Disagree	Strongly disagree	Don't know

Q50. Alternatively, to what extent do you agree that the current provisions for

²⁶ Any charging including that under the Building Safety Bill will be in line with Managing Public Money principles and will not include charging for prosecutions.

prohibition of charging within s.18B(8) of the Fire and Rescue Services Act 2004 should be removed in their entirety to enable charging for enforcement activity for all premises subject to the FSO?

Strongly agree	Tend Agree to	Neither agree nor disagree	Tend Disagree to	Strongly disagree	Don't know

Q51. To what extent do you agree that the proposed ability to charge would incentivise compliance with the FSO?

Strongly agree	Tend Agree to	Neither agree nor disagree	Tend Disagree to	Strongly disagree	Don't know

Q52. To what extent do you agree that FRAs should be able to charge for all unsatisfactory audits conducted under the FSO?

Strongly agree	Tend Agree to	Neither agree nor disagree	Tend Disagree to	Strongly disagree	Don't know

Q53. To what extent do you agree that FSO Inspectors should be able to charge only for unsatisfactory audits that result in:

a) Informal notifications;

Strongly agree	Tend Agree to	Neither agree nor disagree	Tend Disagree to	Strongly disagree	Don't know

b) Enforcement notices;

Strongly agree	Tend Agree to	Neither agree nor disagree	Tend Disagree to	Strongly disagree	Don't know

c) Prohibition notices; and

Strongly agree	Tend to Agree	Neither agree nor disagree	Tend to Disagree	Strongly disagree	Don't know

d) Alteration notices

Strongly agree	Tend to Agree	Neither agree nor disagree	Tend to Disagree	Strongly disagree	Don't know

Q54. To what extent do you agree that there should be charging guidance for FRAs in relation to charging provisions in the Fire and Rescue Services Act 2004?

Strongly agree	Tend to Agree	Neither agree nor disagree	Tend to Disagree	Strongly disagree	Don't know

Q55. Please share any thoughts you have on levels of charging and when and how these charges should be applied by FRAs if provision was made for charging in relation to FSO activity.

Q56. Do you have any other comments?

1.9 Charging for False Fire Alarms

Issue

False fire alarms (FFA) impact on the deployment of Fire and Rescue Service (FRS) resources. Although there has been some reduction in FFAs over the last decade, there is significant potential to go further. In the year ending December 2019, 41% (229,882) of all incidents attended by FRSs across England were FFAs. It is reasonable to suggest that levels of attendance at FFA are creating an opportunity cost, preventing FRSs from deploying their resources more effectively. Responding to FFAs requires the use of blue lights; it could also be argued that unnecessary utilisation of blue lights poses a greater risk of danger to both fire-fighters and the public.

There are ways in which FRSs can attempt to reduce FFAs, one of which is through charging. Section 18C(3) of the Fire Rescue Services Act 2004 (FRSA) was introduced to encourage more responsible management of fire alarm systems and allows fire and rescue authorities (FRA) to charge for responding to a false report of a fire in non-domestic premises (subject to the FSO); as a result of equipment having malfunctioned or been mis-installed, and also where there is a persistent problem. Some FRSs have highlighted concerns around lack of clarity with the terminology used in the Act; including the use of the terms “malfunctioned” and “mis-installed”, which they don’t think reflect the full scope of the FFA definition, and the use of the word “persistent”. There is a definition of the term FFA under British Standard 5839-1 which is recognised by FRSs and is distinct from the criteria within the legislation.

Where FRAs want to charge, the lack of clarity with terminology, and lack of alignment with BS 5839-1, appears to be a factor in their reticence to do so. Similarly, FRAs who have attempted to charge find it difficult to utilise legislation in court to underpin their decisions where charging decisions are challenged. It is worth noting that the current approach to charging is at the discretion of local FRAs. However, the extent to which charging drives the requisite behaviour change to further reduce the overall number of FFAs warrants further examination.

To understand these issues in more detail we are seeking views on the current provision for charging in reducing false fire alarms in non-domestic premises, the efficacy of the provisions in the FRSA 2004 and whether changes might be required.

Questions

Q57. To what extent do you agree that charging can be a beneficial tool when attempting to reduce FFA and encourage behaviour change?

Strongly agree	Tend to Agree	Neither agree nor disagree	Tend to Disagree	Strongly disagree	Don't know

Q58. Please provide further information on your thoughts around possible behaviour change (both positive and negative).

Q59. To what extent do you agree that barriers to the current charging system for FFA exist?

Strongly agree	Tend to Agree	Neither agree nor disagree	Tend to Disagree	Strongly disagree	Don't know

Q60. Please provide further information on your views

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Q61. To what extent do you agree that the following terminology, under 18C(3) FRSA, in relation to charging for FFA are appropriate and clear?

a) Malfunctioned;

Strongly agree	Tend to Agree	Neither agree nor disagree	Tend to Disagree	Strongly disagree	Don't know

b) Misinstalled; and

Strongly agree	Tend to Agree	Neither agree nor disagree	Tend to Disagree	Strongly disagree	Don't know

c) Persistent.

Strongly agree	Tend to Agree	Neither agree nor disagree	Tend to Disagree	Strongly disagree	Don't know

Q62. Please provide further information on your thoughts around the following terminology, under 18C(3) FRSA, in relation to charging for FFA –

a) Malfunctioned;

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b) Mis-installed;

--

c) Persistent; and

--

d) Other *(Please note any other terminology you would like to comment on).*

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Q63. To what extent do you agree that FRA can charge for the following types of FFA?

FFA is defined into four categories under BS 5839-1: False alarms with good intent, malicious false alarms, equipment false alarms and unwanted alarms.

a) False alarms with good intent;

Strongly agree	Tend Agree to	Neither agree nor disagree	Tend Disagree to	Strongly disagree	Don't know

b) Malicious false alarms;

Strongly agree	Tend Agree to	Neither agree nor disagree	Tend Disagree to	Strongly disagree	Don't know

c) Equipment false alarms; and

Strongly agree	Tend Agree to	Neither agree nor disagree	Tend Disagree to	Strongly disagree	Don't know

d) Unwanted alarms.

Strongly agree	Tend Agree to	Neither agree nor disagree	Tend Disagree to	Strongly disagree	Don't know

Q64. Please provide further information on your views.

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Q65. To what extent do you agree that we should take steps to change the current approach to charging under 18C(3) FRSA?

Strongly agree	Tend Agree to	Neither agree nor disagree	Tend Disagree to	Strongly disagree	Don't know

Section 2: Grenfell Tower Inquiry Phase 1 Report Recommendations

The Grenfell Tower fire occurred on 14 June 2017 and led to the greatest loss of life due to a residential fire in the UK since the Second World War. This prompted the then Prime Minister Theresa May to announce a full public inquiry into these events. She appointed Sir Martin Moore-Bick as Chair, who decided that the Inquiry would be conducted in two phases. Phase 1, which has now concluded, focused on the events and actions taken on the night of the fire, including the emergency response. Phase 2 is looking into how the tower came to be so exposed to the risk of fire and will also focus on events and actions in the days following the fire.

This section focuses on those recommendations where the Inquiry called for changes to the law (listed in Annex A) and sets out the Government's proposed approach to their implementation. The recommendations relate primarily to requirements on building owners and managers to provide information to Fire and Rescue Services to ensure they can provide an effective operational response, and to provide assurance and additional safety measures to residents. Some, however, go further and apply to all multi-occupied residential buildings regardless of height. Through these proposals, the Government will seek to implement the Inquiry's recommendations and meet its objectives in the most practical, proportionate and effective way.

There are a number of operational implications that arise from the implementation of the proposals set out in this section, for example in relation to information systems that may be required by FRSs to store and manage information provided by RPs, and measures to ensure the safety and security of the information including data protection requirements. These will continue to be considered as a final set of proposals is developed and we move towards implementation.

The Government's commitment to implementing the Inquiry's recommendations remains undimmed, as does our commitment to ensure those most affected by the tragic events at Grenfell Tower – the bereaved and survivors, continue to have a voice in their implementation. In the Phase 1 report, Sir Martin Moore-Bick indicated that the Inquiry's recommendations needed to have broad support in order to have practical value on the ground. He stated, *"I also think it is important that they [recommendations] command the support of those who have experience of the matters to which they relate. Recommendations that are not grounded in the facts are of no value and recommendations that do not command the support of those who are experts in the field are likely to be ignored and, if not ignored, risk giving rise to adverse unintended consequences"*.²⁷

²⁷ [Grenfell Tower Inquiry.org.uk \(page 11\)](https://www.grenfelltowerinquiry.org.uk/page/11)

We propose where appropriate to use the power in Article 24 of the Regulatory Reform (Fire Safety) Order 2005 (FSO) to implement the recommendations by making regulations setting out precautions which will need to be taken, or observed, by those on whom such duties are conferred. As is required by Article 24(4) this consultation seeks the views of the appropriate persons on the proposals before such regulations are made. Responses to this consultation will be taken into account in the development of the regulations which will be subject to scrutiny before Parliament. The regulations will be supported by guidance.

The FSO applies to all premises (save for those expressly excluded) including workplaces and the non-domestic parts of all multi-occupied residential buildings. Regulations made under Article 24 of the FSO can apply new requirements to Responsible Persons (RPs) and dutyholders, including building owners and building managers with control of premises²⁸. In relation to buildings under construction or undergoing alteration, the Government proposes to implement relevant recommendations by updating building regulation statutory guidance.

The proposals in Part 1 of this consultation, which will strengthen the FSO more broadly, will complement these additional measures.

Using the FSO through the regulation making power as described to implement the recommendations fits with their underpinning intention which is to ensure that those responsible for relevant buildings take the necessary steps to ensure that residents are safe. The responsibilities and requirements imposed on RPs (and/or dutyholders) will be generally linked to matters over which they have control. The RP will need to demonstrate that they have done all that could reasonably be expected of them to avoid committing an offence. Fire and Rescue Services will be able to take enforcement action against any relevant RP (or dutyholder) who does not comply with these requirements and failure to comply with regulations is a criminal offence where doing so places one or more relevant persons at risk of death or serious injury in case of fire. The relevant RP could be subsequently prosecuted and if found guilty could be liable to an unlimited fine, imprisonment or both.

Building Safety Bill

The draft Building Safety Bill will put in place an enhanced safety framework for high-rise residential buildings, taking forward the relevant recommendations from Dame Judith Hackitt's Independent Review of Building Regulations and Fire Safety.

Many of the Inquiry recommendations are specifically for high-rise residential buildings which are proposed to be scope of the draft Building Safety Bill. Alignment between the two regulatory regimes (FSO and draft Building Safety Bill) will be important. However, it is essential to differentiate between the intentions of the draft Building Safety Bill and the FSO (including any regulations made under the Order). Many of the Phase 1 recommendations are targeted to ensure Fire and Rescue Services have the information that they need to

²⁸ Article 24 of the Fire Safety Order can apply specific precautions relating to risks to relevant persons in specific premises

provide an effective operational response in the event of a fire, and that residents know how they can evacuate in the event of a fire. The draft Building Safety Bill does not have the same focus on the operational response to fire.

There is likely to be some overlap between the two regulatory regimes once the Building Safety Act is commenced. Before that point is reached, it will be necessary for Government to review regulations made under the FSO implementing the Phase 1 recommendations to avoid any unnecessary duplication and ensure clarity is maintained for those affected by them.

2.1 Definition of Height for High-Rise Buildings

Issue

The Inquiry recommendations are applicable to either “high-rise residential buildings” or “every residential building containing separate dwellings (whether or not it is a high-rise building)”.

It is critical that Government provides clarity as to which buildings fall within scope of the proposals. This will ensure that those to whom these new requirements apply are clear on their role and responsibilities, and those who are responsible for enforcing against them have the necessary knowledge to take action where necessary. The Inquiry did not take a position nor make an actual recommendation in relation to height of high-rise buildings in Phase 1. The Inquiry’s chairman, Sir Martin Moore-Bick, noted:

(...) that question (of height) was not the subject of examination in Phase 1 and it is therefore not possible for me to make a recommendation about it at this stage. It is, however, a matter which will be examined in Phase 2²⁹. (p.771)

We do not want to pre-empt the outcome of Phase 2 of the Inquiry and accept that height is only one of the factors which could be considered to assess fire risks in complex buildings. Nonetheless, in the context of implementing the Inquiry’s Phase 1 recommendations, we have given careful consideration to the height above which multi-occupied residential blocks should be defined as “high-rise”.

Government has already set a height at which a building may be considered “high-rise” in its proposals for the initial scope of the draft Building Safety Bill, which recognises that flexibility is needed, and provision proposed to enable the scope to be amended in the future if necessary. The starting scope for the Bill is currently proposed to be multi-occupied residential buildings of 18 metres and/or more than six storeys, whichever is reached first. Height definition and calculation of storeys will be based on the methods of measurement set out in the Building Regulations statutory guidance (i.e. Approved Document B). The height definition will be based on the height of the top storey – a two-parameter test covering both height and number of storeys has been proposed to reduce the issue of two similar

²⁹ <https://assets.grenfelltowerinquiry.org.uk>

buildings being under different regimes, and thus prevent gaming of the system. As buildings get taller, risk can increase. Evacuation plans become more complex as more people live in them, and intervention from Fire and Rescue Services becomes more challenging. The height of 18 metres, as set out in Building Regulations, is the height at which it is considered necessary to adopt additional standards for fire protection in buildings (for example, structural fire resistance periods vary depending on the height of the building³⁰).

We also know that there is a variation in the protection provided by Fire and Rescue Services for buildings between 11 and 18 metres. Front line equipment carried by fire-fighters is primarily fit for external firefighting and rescue up to 11 metres in floor height. In May 2020, the Government announced changes to Approved Document B. These amendments to sprinkler provisions, and new guidance on consistent wayfinding signage, will apply to building works in a block of flats or mixed-use buildings containing flats with a top floor more than 11 metres above ground level.

Proposals

Proposal 9: It is necessary to define which multi-occupied residential buildings will be subject to the Inquiry’s recommendations, and therefore the Government’s proposals, by reference to height.

The proposal is to align with the proposed scope of the draft Building Safety Bill and apply those recommendations that refer to “high-rise” residential buildings to buildings that are 18 metres or above and/or more than six storeys, whichever comes first.

Where a proposal applies to a different category of building, or a different height threshold is suggested, the consultation document will make this clear.

Questions

Q66. To what extent do you agree that we should apply the same height definition for high-rise residential buildings to that set out in the proposed Building Safety Bill (18 metres and above and / or more than six storeys whichever comes first) to any proposed regulations made under the FSO?

Strongly agree	Tend to Agree	Neither agree nor disagree	Tend to Disagree	Strongly disagree	Don’t know

Q67. Do you have any other comments to further support your answers above?

³⁰https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/887210/AD_B_2019_edition_May2020_amendments.pdf

2.2 External Walls

Recommendation 33.10 (a) states that:

*The owner and manager of every high-rise residential building be **required by law** to provide their local fire and rescue service with information about the design of its external walls together with details of the materials of which they are constructed and to inform the fire and rescue service of any material changes made to them (p.773).*

Issue

The Government agrees that details about the design and materials of the external walls are useful for both operational firefighting and fire safety inspection purposes. These details should be kept up to date and therefore any changes to external walls should be recorded and that information passed to the local Fire and Rescue Service.

The effect of the Fire Safety Bill will be that RPs will need to make an assessment of the fire risks posed by the structure and external walls (including balconies and anything attached to those walls) of all multi-occupied residential buildings. Where RPs have yet to take action in line with the Independent Expert Advisory Panel's advice for multi-storey, multi-occupied residential buildings³¹, they are encouraged to identify the relevant materials and update their fire risk assessment. The information will need to be both accurate and accessible (both format and non-technical terms) and presented in a format that can span multiple residential portfolios and local Fire and Rescue Services' boundaries. The building owner / manager as the RP under the FSO would need to submit this information to their local fire and rescue service.

Identification of these materials is linked to the competence and capacity of fire risk assessors and others such as fire engineers, building surveyors and architects, to make judgements on risks posed by external wall systems. We are mindful of the current challenges and remain committed to working with the relevant sectors to address these, including implications under the new building safety regime (e.g. golden thread or safety case requirements).

Proposals

Proposal 10: In line with the Inquiry's recommendation, we propose to require the relevant RPs in high-rise residential buildings to provide local Fire and Rescue Services with information about the design of the building's external walls as well as details of the materials they are constructed from and to inform local Fire and Rescue Services of any material changes made to them.

³¹ Following the Grenfell Tower fire, the independent expert advisory panel was established to recommend to the government any immediate action it thinks that the government should take that will improve public safety and help to identify buildings of concern. The panel members have a wealth of experience in fire and building safety, including testing processes, and are drawing in wider technical expertise as necessary to inform this advice.

Any material changes could be a change to the materials used within the construction, as well as any changes that could affect the risk profile of the building.

Proposal 11: We propose to go further by ensuring that relevant RPs provide additional information to their Fire and Rescue Service in relation to the level of risk that the design and materials of the external wall structure gives rise to and the associated mitigating steps taken either (a) in a standard format or (b) the relevant section of the fire risk assessment that is related to external walls. This will also be dependent on the outcome of proposals in relation to fire risk assessments.

In this context, standardisation is key to support both owners / building managers (relevant Responsible Persons) as well as local Fire and Rescue Services. We propose to supplement these proposals with further guidance to assist both compliance and enforcement activity.

Questions

Q68. To what extent do you agree with the above proposal to make regulations as described above? Please explain.

Strongly agree	Tend to Agree	Neither agree nor disagree	Tend to Disagree	Strongly disagree	Don't know

Q69. In your view, what form should the information in relation to fire risks linked to the design and materials of the external wall structures, and the mitigating steps, be provided:

- a) A bespoke standard format, or
- b) The relevant section of the fire risk assessment that is related to external walls?

Q70. Do you have any other comments to further support your answers above?

2.3 Plans

Recommendation 33.12 (a) states that:

*The owner and manager of every high-rise residential building be **required by law**:*

- a) *to provide their local Fire and Rescue Services with up-to-date plans in both paper and electronic form of every floor of the building identifying the location of key fire safety systems.*

Issue

The Government agrees that the floor plans covered by this recommendation are likely to be useful and relevant to the local Fire and Rescue Service, in assisting it to plan and deliver effective operational response to a fire incident in a high-rise residential building.

The plans should be simple to assist quick and critical decisions which may need to be taken by operational fire-fighters during an incident. Although RPs may already have plans for their building, a new standardised approach is proposed to ensure consistency across the public and private housing sectors.

To avoid Fire and Rescue Services taking on additional administrative burdens which might draw resource away from protection work, it is proposed that RPs only share a digital version of the floor plans with Fire and Rescue Services. The benefits of sharing a paper version of the floor plans would be limited given that Government is proposing, in Proposal 15, to include copies of such plans in Premises Information Boxes on site. In taking into account other practical considerations, we are testing through this consultation whether plans for every floor should be provided or only for those where floor plans differ in layout. This could reduce the size of the planning documentation which may have some benefits in terms of data storage and ease of use during an incident.

Fire and Rescue Services have indicated that it would assist their operational response if RPs provided them with an additional single page building plan, which clearly indicated the location of key firefighting facilities such as dry risers.

Proposals

Proposal 12: In line with the Inquiry's recommendation, we propose to require that RPs provide the most up-to-date floor plans, identifying the location of key fire-fighting systems, to their local Fire and Rescue Services in an electronic format. Plans should be kept up to date and where there has been a change, new plans should be provided to the local Fire and Rescue Service. We do not propose to require that RPs share paper versions of floor plans with Fire and Rescue Services.

Proposal 13: We propose to go further by requiring RPs to provide their local Fire and Rescue Service with an additional single page building plan, which should include the location of all key firefighting equipment.

Proposal 14: We propose to set out a national standard format to support the RP in collating this information as well as local Fire and Rescue Services in receiving it, for example assisting the provision of supplementary training to their staff and to drive consistency across the sectors. These proposals will be supplemented by guidance to assist both compliance and enforcement activity.

We are not proposing that RPs send paper copies of the building plans to their local Fire and Rescue Service.

Questions

Q71. To what extent do you agree with this proposed approach to make regulations as described above? Please explain.

Strongly agree	Tend to Agree	to Neither agree nor disagree	Tend to Disagree	to Strongly disagree	Don't know

Q72. Please indicate what key firefighting equipment could be included in the building plans:

- a) Dry risers;
- b) Wet risers;
- c) Location of the nearest fire hydrant;
- d) Smoke control systems;
- e) Suppression systems (including associated operating instructions);
- f) Lifts; or
- g) Other (please specify).

Q73. Please indicate whether you think building plans should be provided for every floor of a building or only for those floors that are different in their layout?

- a) Every floor of the building;
- b) Only for those floors that are different in their layout.

Q74. Do you have any other comments to further support your answers above?

2.4 Premises Information Boxes

Recommendation 33.12 (b) states that:

*The owner and manager of every high-rise residential building be **required by law**:*

b) to ensure that the building contains a premises information box, the contents of which must include a copy of the up-to-date floor plans and information about the nature of any lift intended for use by the Fire and Rescue Services (p.773).

Issue

The Government agrees that Premises Information Boxes are a recognised method through which building owners / managers and occupiers provide information to attending Fire and Rescue Services.

Currently, there is no statutory requirement to have them installed in multi-occupied residential premises - their use is voluntary.

When they are installed, there are benefits for the Fire and Rescue Services in terms of their response to incidents as the boxes provide fire-fighters with readily accessible information about the building. Having information about the layout of the building in a Premises Information Box could be seen either as an alternative or supplementary to sending paper and electronic copies of plans to the local Fire and Rescue Service. A national standard would be helpful to increase their usefulness, with the intention of standardising physical aspects such as box specifications, markings, signage, location, access facilities, and box contents.

We are aware that there are concerns in relation to purchasing and maintaining one, as well as the safety and security of its contents. For the provision to be useful, it relies upon the information it contains being accurate, clear, and up to date. There are limited suppliers for such box enclosures and therefore the demand would need to be managed carefully. There are also cost implications associated with Premises Information Boxes as there are many different choices available, some of which can be expensive.

There is some existing guidance for such provisions in certain building types, for example BS 9999 provides guidance on Operational Information (emergency packs). Also, some Fire and Rescue Services have their own guidance notes on Premises Information Boxes (for example London Fire Brigade). However, national guidance would be helpful to increase their usefulness, with the intention of standardising aspects such as box specifications, markings, signage, location, access, and contents.

The Ministry of Housing, Communities and Local Government is proposing to update Approved Document B to address the recommendations of the Inquiry specific to Premises Information Boxes, which will apply to building work carried out for new and altered buildings. Section 14 of the Building Act 1984 requires consultation for proposed substantive changes to building regulations. It has also been common practice to consult on proposed changes to the Approved Documents, as the implications of changes can be complex and the consultation adds value.

Proposals

Proposal 15: In line with the Inquiry's recommendation, we propose to require RPs to have in place in high-rise multi-occupied residential premises a Premises Information Box, and to

include in that box the following documents as set out in the previous proposals (Proposal 12 and 13):

- a) up to date floor plans with the location of key fire-fighting equipment;
- b) a single page building plan with the location of key firefighting equipment.

Proposal 16: We also propose to go further by requiring that the following items are included in the Premises Information Boxes, once the building is occupied:

- a) Copies of the completed fire risk assessment;
- b) Contact details of the relevant RP who could be contacted if required (this may be discharged by **Proposal 1** and **Proposal 5** which would require a completed fire risk assessment to include the name, role and contact details of the relevant RP).

Proposal 17: We propose that the Premises Information Boxes also include a number of other documents described elsewhere in the Inquiry recommendations (such as evacuation plans). We provide further details in the following chapters where we explain how we plan to take these forward. To ensure that new and altered buildings are capable of meeting this requirement once they are built, the Government also proposes to update Building Regulation guidance. MHCLG propose to amend Approved Document B to recommend Premises Information Boxes in new and altered high-rise residential buildings of 18 metres. (The six storey threshold will not be included in Approved Document B to maintain a consistent approach with the current trigger thresholds within the guidance and building regulations).

To help ensure the provision is effective, we propose to include recommendations in FSO guidance and Approved Document B that the Premises Information Boxes are:

- positioned at an appropriate location at the premises;
- clearly identifiable to the Fire and Rescue Service;
- readily accessible to the Fire and Rescue Service;
- sufficient size and dimensions to contain the plans and relevant information; and
- secure from unauthorised access and casual vandalism.

We also propose to include within guidance that the information within the Premises Information Boxes should:

- include relevant information for the Fire and Rescue Services;
- be presented in clear and readily understandable format; and
- be reviewed and kept up to date.

Questions

Q75. To what extent do you agree with this proposed approach to make regulations as described above? Please explain.

Strongly agree	Tend to Agree	Neither agree nor disagree	Tend to Disagree	Strongly disagree	Don't know

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Q76. To what extent do you agree that the Premises Information Boxes should include copies of the completed fire risk assessment?

Strongly agree	Tend to Agree	Neither agree nor disagree	Tend to Disagree	Strongly disagree	Don't know

Q77. To what extent do you agree that the Premises Information Box should include the contact details for the relevant Responsible Person?

Strongly agree	Tend to Agree	Neither agree nor disagree	Tend to Disagree	Strongly disagree	Don't know

Q78. To what extent do you agree that there should be a consistent approach to Premises Information Boxes between the Fire Safety Order and the Building Regulation guidance?

Strongly agree	Tend to Agree	Neither agree nor disagree	Tend to Disagree	Strongly disagree	Don't know

Q79. To what extent to you agree that Approved Document B should set the threshold at 18m top storey height only in relation to the Premises Information Boxes requirement?

Strongly agree	Tend to Agree	Neither agree nor disagree	Tend to Disagree	Strongly disagree	Don't know

Q80. Do you consider that other recommendations should be provided? Please explain.

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Q81. Do you have any other comments to further support your answers above?

2.5 Lifts

Recommendation 33.13 states that:

- a) *The owner and manager of every high-rise residential building **be required by law** to carry out regular inspections of any lifts that are designed to be used by firefighters in an emergency and to report the results of such inspections to their local fire and rescue service at monthly intervals;*
- b) *The owner and manager of every high-rise residential building **be required by law** to carry out regular tests of the mechanism which allows firefighters to take control of the lifts and to inform their local fire and rescue service at monthly intervals that they have done so (p. 774).*

Issue

The Government agrees that it is important to ensure that Fire and Rescue Services can amend their operational response to consider any impairment to the lift capability of a building that they might otherwise rely on during an emergency response.

The RP should already be undertaking routine checks and maintenance recommended by the lift manufacturer. Monthly tests of the lifts designed to be used by fire-fighters in an emergency and the mechanism through which fire-fighters can take control of the lifts can be done as part of this routine maintenance or alongside it.

Practical consideration has been given to the reporting of the results of all lift checks for high-rise buildings to local Fire and Rescue Services. The quantities of data associated with such an approach, the bulk of which is likely to be about equipment that is in good working order, would be challenging for both RPs and Fire and Rescue Services and of limited value to the latter. Certain Fire and Rescue Services would need to receive, manage, and filter large amounts of data which would have significant resourcing requirements for marginal benefit.

Proposals

We consider that the objectives of the recommendation can be delivered most practically, proportionately and effectively through real-time exception reporting of the failures of relevant lifts and the mechanism which allows fire-fighters to take control of the lifts.

Proposal 18: We propose to require that relevant RPs in high-rise residential premises undertake monthly checks of any lifts within the building that are designed to be used by fire-fighters and of the mechanism which allows fire-fighters to take control of lifts as set out in the Inquiry recommendation. Where RPs identify, either through the monthly checks or

via any other routine checks, that a relevant lift or mechanism has a fault or is out of service, they must report it to the Fire and Rescue Service. A standard threshold will need to be set for the reporting timeframe to the local Fire and Rescue Services.

Proposal 19: We propose to go further by enhancing this proposal to maximise the safety of residents in the following ways:

- Some buildings may not have lifts specifically designed for use by fire-fighters as set out in the Inquiry recommendation, and therefore we propose to require RPs to apply this approach to all lifts within relevant buildings.
- There are other pieces of fire-fighting equipment in a high-rise building which are also critical in the event of a fire, for example dry risers and smoke control systems, and therefore we propose to require RPs to apply the above approach to these pieces of equipment as well. This means that for all specified key fire-fighting equipment RPs must undertake monthly inspections or tests, with exception reporting of failures to Fire and Rescue Services.
- Where monthly checks on a piece of equipment are required these should be recorded in an open and transparent way that is accessible to residents. This will provide residents with the information they need to hold RPs to account for any failures to comply with this duty.

We propose to supplement these proposals with further guidance to assist both compliance and enforcement activity.

Questions

Q82. To what extent do you agree with this proposed approach to make regulations as described above? Please explain.

Strongly agree	Tend to Agree	Neither agree nor disagree	Tend to Disagree	Strongly disagree	Don't know

Q83. What would you suggest is a sufficient threshold for the reporting timeframe to the local Fire and Rescue Services?

- Within 24 hours of the fault or issue being identified;
- Within 48 hours of the fault or issue being identified;
- Within 72 hours of the fault or issue being identified; or
- Other – please specify.

Q84. To what extent do you agree that the proposal should cover all lifts within a building?

Strongly agree	Tend to Agree	Neither agree nor disagree	Tend to Disagree	Strongly disagree	Don't know

Q85. To what extent to you agree that the proposal should cover other pieces of key fire-fighting equipment?

Strongly agree	Tend to Agree	Neither agree nor disagree	Tend to Disagree	Strongly disagree	Don't know

Q86. What other pieces of key fire-fighting equipment, excluding lifts and the mechanism with through which fire-fighters can take control of the lifts, would you suggest should be included in this proposal (therefore tested or inspected every month and reported to the local Fire and Rescue Service in the event of failure)?

- a) Dry risers;
- b) Wet risers;
- c) Smoke control systems;
- d) Suppression systems (including associated operating instructions); and
- e) Other (please specify).

Q87. To what extent do you agree that the proposal should be extended to include a requirement for information about the monthly checks to be made visible to residents?

Strongly agree	Tend to Agree	Neither agree nor disagree	Tend to Disagree	Strongly disagree	Don't know

Q88. Do you have any other comments to further support your answers above?

2.6 Evacuation Plans

Recommendation 33.22 (c) states that:

- c) *that the owner and manager of every high-rise residential building be **required by law to draw up and keep under regular review evacuation plans, copies of which are to be provided in electronic and paper form to their local fire and rescue service and placed in an information box on the premises** (p. 777).*

Issue

The Government agrees that it is critical for RPs to have in place an evacuation plan to ensure that building occupants can safely exit the building in case of an emergency, and that Fire and Rescue Services are aware of the evacuation plan and have an appropriate operational response prepared should this be required.

The FSO already places a number of requirements on RPs to implement reasonable and practicable arrangements and procedures to safeguard relevant persons and prevent serious and imminent danger. Most RPs for multi-occupied residential premises should already have in place an evacuation plan to provide assurance to themselves and residents as well as demonstrate compliance with the Order.

To avoid Fire and Rescue Services taking on additional administrative burdens which might draw resource away from protection work it may be practical for RPs to only share a digital version of the evacuation plan with Fire and Rescue Services. The benefits of sharing a paper version of the evacuation plan would be limited given that the Inquiry recommendation also states that a copy of the plan should be placed in a Premises Information Box.

Proposals

Proposal 20: In line with the Inquiry's recommendation, we propose to require that relevant RPs draw up and keep under regular review evacuation plans, copies of which are to be sent electronically to Fire and Rescue Services and placed in a Premises Information Box on site (see the related proposal in section 2.4). We do not propose that RPs provide a paper copy of the evacuation plan to Fire and Rescue Services.

Proposal 21: We also propose to test whether this proposal should be extended to cover all multi-occupied residential buildings of 11 metres and above, rather than specifically high-rise residential buildings of 18 metres and above or more than six storeys (whichever is reached first).

We expect that the evacuation plan would be dependent on the design of the building and the evacuation strategy in place, for example 'Stay Put' versus 'Simultaneous Evacuation'. Any change in the evacuation plan would require an updated plan to be issued to the local Fire and Rescue Service and placed in the Premises Information Box. We propose to supplement these proposals with further guidance to assist both compliance and enforcement activity.

Questions

Q89. To what extent do you agree with the proposed approach to make regulations as described above? Please explain.

Strongly agree	Tend to Agree	Neither agree nor disagree	Tend to Disagree	Strongly disagree	Don't know

Q90. Do you think this proposal should be extended to cover all multi-occupied residential buildings of 11 metres and above? Please explain.

Strongly agree	Tend to Agree	Neither agree nor disagree	Tend to Disagree	Strongly disagree	Don't know

Q91. What information do you think should be included in an evacuation plan?

Q92. Do you have any other comments to further support your answers above?

2.7 Personal Emergency Evacuation Plans

Recommendation 33.22 (e) and (f) states:

*e) (...) that the owner and manager of every high-rise residential building be **required by law** to prepare personal emergency evacuation plans for all residents whose ability to self-evacuate may be compromised (such as persons with reduced mobility or cognition);*

*f) (...) that the owner and manager of every high-rise residential building be **required by law** to include up-to-date information about persons with reduced mobility and their associated PEEPs in the premises information box (p. 777).*

Issue

The Government has established a Fire Protection Board, supported by £10m of new funding, that is leading a Building Risk Review Programme to ensure, in line with the MHCLG Secretary of State's commitment to Parliament on 5 September 2019, that all high-rise

residential buildings in England of 18 metres and above are inspected or reviewed by the end of 2021.

The first stage of the Building Risk Review Programme was to review the fire safety in all ACM clad high-rise buildings over 18 metres in height, which was completed in March 2020. All buildings have been either visited and deemed safe, remediation has now taken place, or, in a minority of cases, continual monitoring measures have been put in place by the local FRS and building owners to manage and maintain the interim measures, and continually assess risks.

Notwithstanding the work being taken forward through the Building Risk Review Programme, the Government agrees with the Inquiry that more should be done to ensure that people who cannot evacuate from high-rise residential buildings by themselves are assisted in the event of a fire incident.

There are a number of practical challenges to the delivery of this recommendation, however, that make it challenging to implement as written. In developing our own proposals, we have sought to give effect to the underlying objectives of the Inquiry's recommendation whilst being mindful of the need to ensure that it can be delivered on the ground.

Personal Emergency Evacuation Plans (PEEPs) are routinely put in place in workplaces such as offices, hospitals and care homes, where a third party is present, or equipment is available and can be used to facilitate the evacuation of a person whose ability to self-evacuate may be compromised.

PEEPs are not routinely in place in multi-occupied residential buildings due to practical challenges with their implementation in that context. These include: the lack of personnel available to assist during an evacuation; the complexity of any particular building and the roles of those responsible; high turnover of residents; and data protection concerns.

The Public Inquiry's Phase 1 report found that 'Stay Put' failed at Grenfell Tower on the night of 14 June 2017 as the ACM cladding on the building acted as a source of fuel for the fire and compromised compartmentation did not prevent the internal spread of fire and smoke within the building. However, it is also the case that in most multi-occupied residential buildings, the National Fire Chiefs Council advice is that 'Stay Put' remains an appropriate strategy where compartmentation works to stop the spread of fire, and there are suitably protected means of escape. It is generally safer for residents to stay inside their flats unless the heat and smoke from the fire is affecting them, in which case they should leave. Different arrangements are in place for evacuation of buildings with unsafe cladding, such as 'Waking Watch'. 'Stay Put' is a well-established strategy, where a building is built and maintained properly, but it is right that we subject that strategy to a full and detailed examination. A joint Home Office and MHCLG steering group was set up in December 2019 to support a technical review of 'Stay Put'.

In the absence of personnel within high-rise residential buildings who could assist with evacuations, the RPs could directly inform the Fire and Rescue Services about those individuals who may require assistance. The RPs would need to know the location within the building of those individuals and pass this information to the FRS so that, in the event of an incident, they would seek to provide assistance. For this process to work, residents would first need to identify themselves to RPs as requiring assistance in the event of an evacuation. Residents would also need to provide their consent to this information being shared with Fire and Rescue Services and placed in the Premises Information Box. Measures would also be required to ensure the safety and security of this data.

It would be critical to keep any information on vulnerable occupants up to date. Fire-fighters responding to an operational incident could only act on the information available at the time, potentially risking their lives or losing precious time trying to locate a resident who was not there or is no longer vulnerable.

The one exception to this approach would be where a known higher risk multi-occupied residential building has a 'Waking Watch' on site, which is a temporary measure to mitigate known risks. In such cases, there would be personnel in place who could assist with the evacuation of vulnerable occupants. On those buildings that have changed from a 'Stay Put' to a 'Simultaneous Evacuation', there are additional provisions already in place such as the requirement to have on-site staff as part of the 'Waking Watch', who patrol the building, are trained and can assist with the evacuation if needed, with the consent and cooperation of the resident. The National Fire Chiefs Council has already issued guidance to support a temporary change to a Simultaneous Evacuation strategy in purpose-built block of flats. The guidance advises that where a block of flats has a 'Waking Watch' present, there should also be PEEPs in place³², subject to the cooperation of the resident. Under this guidance a PEEP is defined as "*A documented plan for the evacuation of people who are unable to self-evacuate, and/ or require some assistance to do so.*)" This sits alongside provision of information to residents so that they are informed as soon as practicable about the reasons for the change from a Stay Put to a Simultaneous Evacuation strategy, its purpose and what actions will be taken in the event of a fire.

Proposals

Proposal 22: We propose to deliver the Inquiry's underlying objective that residents who need help to evacuate in the event of fire can access that assistance, whilst being mindful of the challenges of establishing PEEPs in multi-occupied residential buildings.

We propose to require that RPs in high-rise residential buildings provide relevant details of residents who self-identify as requiring assistance to evacuate to local Fire and Rescue Services and to place these in the Premises Information Box. As well as self-identifying to the RP, vulnerable residents would also need to provide prior consent before their information could be provided to their local Fire and Rescue Service and placed in the Premises Information Box. We consider that the relevant details should include the location

³² [Guidance NFCC Simultaneous Evacuation](#)

of the individual and will seek views through this consultation on what other information should be provided. This information must be kept up to date, and residents should notify the RP where their situation changes.

Proposal 23: To support this approach, we also propose to require that the relevant RP provide information to residents about the process through which they can provide the necessary information, in order to declare that they need assistance. This should also include guidance to residents on the importance of keeping such information up to date.

Proposal 24: Where a high-rise multi-occupied residential building has been identified as being higher risk and a 'Waking Watch' is in place (in buildings with un-remediated cladding or under interim measures and in which 'Stay Put' is suspended due to heightened risk), the RP would be required to prepare a PEEP for each resident who self-identifies as requiring assistance with evacuation. In such buildings, there should be personnel available and able to assist with an evacuation. We propose that in buildings with 'Waking Watch' the RP should be required to prepare a PEEP for each resident who self-identifies to them as requiring assistance with evacuation. The RP will be required to keep it up to date and, with the explicit consent of the resident, share it with the local fire service to assist with their planning and response to any incident.

We propose to supplement these proposals with further guidance to assist both compliance and enforcement activity.

Questions

Q93. To what extent do you agree with the proposed approach to make regulations as described above? Please explain.

Strongly agree	Tend to Agree	Neither agree nor disagree	Tend to Disagree	Strongly disagree	Don't know

Q94. To what extent do you agree that a RP should notify their local Fire and Rescue Service of any residents who cannot self-evacuate (subject to the resident's consent and self-identification)?

Strongly agree	Tend to Agree	Neither agree nor disagree	Tend to Disagree	Strongly disagree	Don't know

Q95. What information, other than location, do you think should be provided to Fire and Rescue Services in relation to residents who cannot self-evacuate?

Q96. To what extent do you agree that a Responsible Person should notify their local Fire and Rescue Service of any residents who cannot self-evacuate (subject to the resident engagement, resident self-identification and consent)?

Strongly agree	Tend to Agree	to Neither agree nor disagree	Tend to Disagree	to Strongly disagree	Don't know

Q97. Please indicate what information you would like to see included in the supporting guidance?

Q98. Do you have any other comments to further support your answers above?

2.8 Information to Residents

Recommendation 33.28 states that:

*(...) the owner and manager of every residential building containing separate dwellings (whether or not it is a high-rise building) be **required by law** to provide fire safety instructions (including instructions for evacuation) in a form that the occupants of the building can reasonably be expected to understand, taking into account the nature of the building and their knowledge of the occupants (p. 778).*

Issue

The Government agrees that residents of any multi-occupied residential building should be provided with information and instructions, including those for evacuation, in a form that they can understand and that takes into account the nature of the building and their knowledge of the occupants.

The FSO already places a duty to take general fire precautions as may reasonably be required to ensure in relation to “relevant persons” that the premises are safe. ‘Relevant persons’ includes anyone who is lawfully on the premises or in the immediate vicinity of the premises at risk from a fire on the premises. For multi-occupied residential premises this includes residents. The duty is to ensure the safety of the premises in relation to the relevant person and take such general fire precautions in as may be reasonably required in the circumstances.

At present the FSO does not expressly require provision of information to residents, as it does not apply to the domestic parts of multi-occupied residential premises occupied by residents. However, it does apply to the non-domestic parts of such premises and, as a result, we propose to require RPs to provide information to residents in these premises, including in relation to fire safety risks and mitigations being taken. This is aligned with section 1.4 (Provision of Information) which proposes that RPs are required to provide residents of all multi-occupied residential buildings the following information:

- 1) The risks to them identified by the fire risk assessment;
- 2) The preventative and protective measures in place to mitigate potential fire risks; and
- 3) The role and responsibilities of relevant RPs, including their name, capacity and contact details.

The provisions proposed under that section will be further supplemented by the additional proposals here.

Proposals

Proposal 25: In line with the Inquiry’s recommendation we propose to require RPs to provide residents with the fire safety information set out above (including instructions for evacuation) in a form that they can reasonably be expected to understand, taking into account the nature of the building and their knowledge of the residents.

Proposal 26: We propose to supplement the proposal above with the additional general provisions for RPs in relation to information to residents under the FSO (see Proposal 6).

Further guidance will also be produced to assist both compliance and enforcement activity.

We are also seeking views on what information should be included in this proposal beyond instructions for evacuation.

Q99. To what extent do you agree with this proposed approach to make regulations as stated above? Please explain.

Strongly agree	Tend to Agree	Neither agree nor disagree	Tend to Disagree	Strongly disagree	Don't know

Q100. Other than the information already listed under Proposals 25 and 26, what other information or instruction should be provided to residents?

Q101. What factors should be taken into consideration in relation to the:

a) “nature of the building”, and

b) the RPs “knowledge of the occupants”?

Q102. Please indicate what information you would like to see included in the supporting guidance?

Q103. Do you have any other comments to further support your answers above?

2.9 Fire Doors

Recommendation 33.29 (b) states that:

*33.29 (b) The owner and manager of every residential building containing separate dwellings (whether or not they are high-rise buildings) be **required by law** to carry out checks at not less than three-monthly intervals to ensure that all fire doors are fitted with effective self-closing devices in working order.*

Issue

The Government has recommended that all fire doors, including their closers, should be routinely checked or inspected by a suitably qualified professional. It issued this advice through its Independent Expert Advisory Panel calling on landlords or building owners to communicate with residents to ensure that they are aware of the importance of maintaining the self-closing devices on all fire doors, including flat entrance doors³³.

³³ <https://www.gov.uk/government/publications/building-safety-advice-for-building-owners-including-fire-doors>

The Government agrees with the Inquiry that there is a case for prescribing in law the frequency of checks on fire doors in multi-occupied residential buildings where appropriate, over and above the maintenance requirements already required under the FSO and requirement to regularly review the fire risk assessment. We also agree that the responsibility to make the checks should reside with the building owner or manager - the RP. This will ensure the checks are undertaken systematically, by a suitably qualified person and with appropriate record keeping, available for compliance audits by the Fire and Rescue Authority.

Fire safety relies on effective fire resisting compartmentation of the whole building, preventing fire and associated smoke from spreading to other flats and protecting shared or communal areas that provide means of escape. Fire doors are a key part of the layered approach to fire safety measures and strategies, as well as those doors within the shared areas – such as lobbies, hallways and stairwells.

The Inquiry found that the ‘absence of effective self-closing devices, some of which were broken or had been disabled or removed’³⁴ allowed smoke and toxic gases to spread through Grenfell Tower more quickly than should have been possible.

As part of its response to this recommendation, and also to ensure that there is better identification and management of fire safety risks in these buildings, the Government is already taking action. The Fire Safety Bill will clarify that the doors between domestic premises and non-domestic parts of the building are within scope of the FSO. Whilst the Order has commonly been interpreted to include these doors, the Bill removes any ambiguity.

To take forward the Inquiry’s recommendation, the Government proposes to rely on the relevant duties in the Order on the RP(s) and others including, where relevant, those on residents to co-operate with the RP.

These duties under the Order, including those that are clarified by the Bill in relation to the flat entrance door, depend on the circumstances, for example:

- the RP’s duties to undertake a ‘suitable and sufficient assessment of the risks’ in order to identify the general fire precautions necessary to keep the building is safe will include doors exclusively located in the non-domestic parts and the flat entrance doors³⁵.
- where a resident is considered to have ‘control’ and is a dutyholder under the Order for the flat entrance door³⁶, they will be required to co-operate and co-ordinate with the RP(s) on measures being taken to comply with the Order and take all reasonable steps to inform the RP of the risks to ensure the building is safe³⁷.

³⁴ https://grenfelltowerinquiry_phase1report.org.uk– page 779

³⁵ Article 9 of the FSO

³⁶ This will depend on the contract between the leaseholder and freeholder, or obligations in other relevant contracts or tenancy agreements

³⁷ Article 22 of the FSO

- additionally, where necessary to keep safe those lawfully on the premises the RP and dutyholders have a specific duty to ensure the premises (considered to include flat entrance doors) are maintained – ‘in an efficient state, in efficient working order and in good repair’ - and make arrangements with the occupier (who is required to co-operate) to ensure that these requirements are met.³⁸

Any checking process of the flat entrance doors requires access to the flat and the co-operation of the resident. Most residents will comply with their safety responsibilities and assist the RP to comply with theirs. Targeted engagement by the RP with the minority of residents who do not is expected to resolve most issues. In the small number of cases where residents’ behaviour is deemed to be undermining the fire safety of the premises, the RP would be able to take action under existing contractual leasehold or tenancy agreements. Alternatively, the Fire and Rescue Authority could use their enforcement powers, including an enforcement notice requiring steps to be taken to remedy the breach on the basis of failure to co-operate with the RP.

Where the self-closing device needs to be repaired or replaced, the responsibility for doing so will be determined by the lease or tenancy agreement, alongside the specific duty in the Order to maintain the premises ‘in an efficient state, in efficient working order and in good repair’³⁹ or general fire precautions in line with the principles of prevention⁴⁰. The expense associated with any repair or replacement will fall accordingly, including on local authorities, leaseholders and tenants.

The Government’s objective is to ensure high and proportionate standards of fire safety are in place in all multi-occupied residential buildings. The Independent Expert Advisory Panel and the National Fire Chiefs Council have stated that the risk to public safety from faulty doors remains low, though advise that where there are issues the fire risk assessment should be reviewed. The Government has also taken into account that risk can increase with height, the fire risk assessment process (when a suitable sample of doors should be examined at the very least) and that fire doors located exclusively in non-domestic parts (such as corridors, stairways, lobby areas) come under heavier usage and are therefore more susceptible to damage.

The Government is seeking views on what is a reasonable and practicable level of prescription in law to provide the additional safeguards being sought using the height as a determinant.

Proposals

Proposal 27: We propose to require a RP to undertake prescribed checks to ensure effective self-closing devices are in working order in those multi-occupied residential buildings as follows:

³⁸ Article 17 of the FSO. See Chapter 1.6 maintenance

³⁹ Article 17 of the FSO

⁴⁰ See Articles 8,10 and part 3 of Schedule 3

- For building of 18 metres and above (or more than six storeys (whichever is reached first)).
 - At not less than three-monthly intervals, on all fire doors exclusively located in the non-domestic parts;
 - At not less than six-monthly intervals, on all flat entrance doors which are fire doors.

- For buildings of 11 – 18 metres
 - At not less than six-monthly intervals, on all fire doors exclusively located in the non-domestic parts;
 - At not less than yearly intervals, on all flat entrance doors which are fire doors.

Proposal 28: We propose to impose a requirement on the RP to keep records in pursuance of these new requirements.

We are also seeking views on:

- all fire doors in buildings under 11 metres, whether guidance on the checks and their frequency (which could take account of the age of the building, height and risk profile), alongside the fire risk assessment process, is a reasonable and practicable response to the risk in these buildings;
- expanding the proposals to require that checks take place on other parts of doors such as gaps, seals and hinges; and
- the adequacy of the current duties of the RP and those of co-operation on dutyholders and/or other occupants to discharge the proposed new requirements.

Questions

Q104. To what extent do you agree with this proposed approach as described above?

Strongly agree	Tend to Agree	Neither agree nor disagree	Tend to Disagree	Strongly disagree	Don't know

Q105. Do you have any other comments to further support your answer?

Q106. Please note any factors we should consider in the implementation of these proposals.

Q107. Please provide any additional comments on the related matters on which we are seeking views.

Recommendation 33.30 states that:

*33.30 All those who have responsibility in whatever capacity for the condition of the entrance doors to individual flats in high-rise residential buildings, whose external walls incorporate unsafe cladding, be **required by law** to ensure that such doors comply with current standards (779).*

Issue

The Government's position is very clear. All unsafe cladding should be removed as soon as possible. The Independent Expert Advisory Panel on Building Safety provided further advice in January 2020 on materials beyond Aluminium Composite Material cladding which it concluded presents an unacceptable risk to residents. In response to the nature and scale of the cost being passed on to leaseholders, the Government has now made available £1.6bn so that as many buildings as possible are remediated quickly in both the social and private residential sectors on buildings.

The Fire Safety Bill will ensure that external walls and flat front entrance doors are taken into account as part of the RPs 'suitable and sufficient assessment of the risks' and that the FSO applies to them. In addition, the Order already requires that premises (and any facilities, equipment and devices) are maintained in an efficient state, in efficient working order and in good repair. (see Chapter 1.6 – Maintenance, including the role of residents).

Where both unsafe cladding and doors that do not comply with current standards ('substandard doors') are present, it is foreseeable that general fire precautions - being applied in line with the principles of prevention⁴¹ - would require the replacement of the flat entrance doors based on the assessment of the overall fire risk. As mentioned above, the Independent Expert Panel and the National Fire Chiefs Council have stated that while the risk to public safety remains low, the fire risk assessment should be reviewed to determine how quickly substandard doors should be replaced.

The Inquiry's recommendation goes further in calling for a specific requirement in law. It concluded that effective fire doors are particularly important in those high-rise buildings that are exposed to an increased risk of fire because the external walls currently incorporate

⁴¹ See Articles 8,10 and part 3 of Schedule 3

unsafe cladding⁴². Whilst the Chair noted that the experts' views differ about the desirability of requiring existing fire doors to be brought up to modern standards, it was his view that the expense that would inevitably be incurred was justified.

Those that have 'capacity for the condition of the door' will likely depend on contractual leasehold or tenancy agreements. The expense associated with the repair or replacement of the flat front entrance door will fall accordingly.

Proposals

Proposal 29: In line with the Inquiry's recommendation, where external walls have been identified to incorporate unsafe cladding, we propose that those that have 'control' of the relevant door in high-rise residential buildings (by virtue of lease or tenancy agreements) are placed under an obligation to ensure that the door complies with current standards and if necessary, replace the door.

Proposal 30: We further propose that:

- the requirement applies to fire doors exclusively located in the non-domestic parts as well as flat entrance doors in buildings of 18 metres and above (or more than six storeys (whichever is reached first)).
- guidance is available to support decisions whether or not an older fire door meets the required standard, building on the advice of Independent Expert Advisory Panel (January 2020) (in particular, *Annex A: Advice to Building Owners on assurance and assessment of flat entrance fire doors*).

As an alternative, we are also seeking views on whether the clarification in the Fire Safety Bill in relation to flat entrance doors, possible changes to strengthen the relevant provisions in the Order⁴³, alongside the £1.6bn the Government has made available to accelerate the pace of remediation for unsafe cladding, will address sufficiently the Inquiry's concerns.

Questions

Q108. To what extent do you agree with this proposed approach as described above?

Strongly agree	Tend to Agree	to Neither agree nor disagree	Tend to Disagree	to Strongly disagree	Don't know

Q109. Do you have any other comments to further support your answers above?

⁴² https://grenfelltowerinquiry_phase1report.org.uk (p.778) In Phase 2, the Inquiry will investigate the extent to which at the time of the fire the entrance doors to the flats in Grenfell Tower complied with the relevant legislative requirements and, to the extent that they did not, will investigate the reasons for that failure.

⁴³ See Chapter 1.6 Maintenance and other related considerations

Q110. Please note any factors we should consider in the implementation of these changes in this proposal?

Q.111. Please provide any additional comments on the sufficiency of the Government's actions to date to address the Inquiry's concerns.

2.10 Non-legislative Grenfell Tower Inquiry Phase 1 recommendations and alignment with Approved Document B

Issue

The following recommendations in the Inquiry's report which did not refer to being prescribed in law state:

33.22 (d) all high-rise residential buildings (both those already in existence and those built in the future) be equipped with facilities for use by the Fire and Rescue Services enabling them to send an evacuation signal to the whole or a selected part of the building by means of sounders or similar devices;

33.27 in all high-rise blocks of flats floor numbers be clearly marked on each landing within the stairways and in a prominent place in all lobbies in such a way as to be visible both in normal conditions and in low lighting or smoky conditions.

The Phase 1 report also set out that any recommendations for sprinklers would come from Phase 2.

Government agrees that these three measures identified by the Phase 1 report - wayfinding signage, evacuation alert systems and sprinklers - need additional consideration. On 26 May 2020, MHCLG published forthcoming amendments to Approved Document B to recommend sprinkler systems and consistent wayfinding signage in all new blocks of flats with storeys over 11 metres tall⁴⁴. Also, it was announced that the Government would work with the National Fire Chiefs council on a series of tests of evacuation alert systems, with a view to including guidance in a later update to Approved Document B.

Wayfinding signage

The change to Approved Document B on wayfinding signage is in line with the Phase 1 recommendation, although the Inquiry did not recommend a trigger height. Wayfinding

⁴⁴https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/887210/AD_B_2019_edition_May2020_amendments.pdf

signage, requiring floor numbering to support fire and rescue services' operations, is relatively straightforward and inexpensive to introduce. Under the FSO RPs are already required to ensure emergency routes and exits are indicated by signs and this is a minor addition to the signage requirements. This may also support residents if evacuating in an emergency.

Evacuation Alert Systems

The series of tests being undertaken on Evacuation Alert Systems is in response to the Phase 1 recommendation requiring these in all multi-occupied residential buildings. In addition to this testing, research into the operational use of evacuation alert systems will form part of a programme of work relating to evacuation of high-rise residential buildings, which will be commissioned this year. Once the evidence is available, the Home Office and MHCLG will consider this further. Evacuation alert systems provide the Fire and Rescue Services with an option to initiate a change in evacuation strategy via an alarm. A standard for the system has been published but there is a need to review how they should be operated. Concerns have been raised, for example, that the operation of such a system at too early a stage could present further hazards. Other noted concerns being considered include the risk of overcrowding in stairways and compromising ventilation systems where they are designed to account for single door opening into the stairway.

Sprinklers

Sprinklers are an effective fire protection measure and installing them is one of a number of options that RPs can employ to achieve adequate levels of fire safety within buildings. The retrospective installation of sprinklers in an existing building is informed by the fire risk assessment and other relevant duties under the FSO. This is specific to an individual premises and factors in the other fire protection measures in place. There may be different ways to achieve an appropriate level of fire safety in an existing building and there may also be reasons why retrospectively fitting sprinklers would be impractical and inappropriate. The guidance to support compliance with the FSO refers to the use and benefits of sprinklers, as with other available fire protection measures, including guidance specifically for purpose-built blocks of flats⁴⁵.

Proposals

Proposal 31: The Government proposes to include a requirement for wayfinding signage to be introduced in existing multi-occupied residential buildings of 11 metres and above through bespoke regulations for these buildings. This would align with and go beyond the recommendation made by the Grenfell Tower Inquiry Phase 1 report and guidance would also be amended to reflect the new requirement, providing advice on the appropriate size, material and format.

⁴⁵ <https://www.local.gov.uk/sites/default/files/documents/fire-safety-purpose-built-04b.pdf>

Questions

Q112. To what extent do you agree that the installation of sprinklers in existing buildings should continue to be guided by the fire risk assessment process rather than be made mandatory under the FSO?

Strongly agree	Tend to Agree	Neither agree nor disagree	Tend to Disagree	Strongly disagree	Don't know

Q113. To what extent do you agree that regulations should be made requiring wayfinding signage to be introduced in multi-occupied residential buildings?

Strongly agree	Tend to Agree	Neither agree nor disagree	Tend to Disagree	Strongly disagree	Don't know

Q114. Should the requirement for wayfinding signage be introduced in:

- a) all multi-occupied residential buildings; or
- b) multi-occupied residential buildings of 11 metres and above?

Q115. To what extent do you agree any requirement for evacuation alert systems should be informed by the outcome of the programme of research and testing?

Strongly agree	Tend to Agree	Neither agree nor disagree	Tend to Disagree	Strongly disagree	Don't know

Section 3: Building Control Bodies Consultation with Fire and Rescue Authorities

This section sets out a range of proposals to strengthen the regulatory framework for how building control bodies consult with the Fire and Rescue Authorities on plans for building work, and for the effective handover of fire safety information on completion of work to allow the building owner to operate the building safely. Where these proposals require legislative change, the intention is to deliver these through the Building Safety Bill, changes to Building Regulations 2010 or amendments to the FSO. Other changes will be made through new guidance.

We commend the work which the Joint Regulators' Group⁴⁶ has been doing with the Building Regulations Advisory Committee to improve current procedural guidance, and the package of options proposed in this section are intended to deliver a more efficient system in the future.⁴⁷

The consultation sets out proposals for improving the information provided when building control bodies consult Fire and Rescue Authorities on plans for building work; the points at which consultation takes place; whether there should be statutory timescales for responding; management of disagreements and provision of guidance. The consultation also sets out proposals for strengthening the arrangements for the handover of fire safety information when building work is completed under Regulation 38 of the Building Regulations. It covers arrangements in England only.

Background

There are requirements for the relevant enforcing authority under the FSO (usually the Fire and Rescue Authority) to be consulted by building control bodies on plans for building work and for the handover of fire safety information to the Responsible Person for premises subject to the FSO on completion of building work.

For those buildings that are, or will be, covered by the FSO, where a local authority is acting as the building control body, it is required⁴⁸ to consult when plans for building work are deposited, and before those plans are approved.

⁴⁶ The Joint Regulators' Group comprises senior representatives from the HSE, LABC, NFCC and the LGA and is working with the Government to develop operational policy to support the new safety regime for high rise residential buildings and the development of the new Building Safety Regulator.

⁴⁷ These proposals only cover arrangements for non-high-risk residential buildings. A new system is being put in place for high-risk residential buildings in the Building Safety Bill.

⁴⁸ Under Article 45 of the Fire Safety Order

For buildings that are, or will be, covered by the FSO, where an Approved Inspector (AI)⁴⁹ is the building control body, Regulation 12 of The Building (Approved Inspectors etc.) Regulations 2010 requires the Approved Inspector to consult the Fire and Rescue Authority. Consultation is required before or as soon as practicable after an initial or amendment notice has been given, and before a plans certificate or final certificate is given. The Approved Inspector must provide the Fire and Rescue Authority with sufficient plans to show whether the work would comply with Part B (and any other relevant part/s) of the Building Regulations and have regard to any views expressed. The Approved Inspector must not issue a plans certificate or final certificate until 15 days after consulting the Fire and Rescue Authority, unless they have already expressed their views.

As part of the consultation the Fire and Rescue Authority will consider aspects of the design relevant to compliance with the FSO. They may consider plans for compliance with Building Regulations' requirements for means of escape, and access and facilities for the Fire and Rescue Authority, as these will impinge directly on how the Fire and Rescue Authority can tackle a fire in the building. They may also offer comments on other aspects of fire safety⁵⁰.

Regulation 38 of the Building Regulations sets out requirements for fire safety information to be handed over by the person undertaking the work to the Responsible Person for premises subject to the FSO.

Regulation 17 of the Building Regulations requires a local authority to ascertain that, having taken all reasonable steps, the fire safety requirements in the Building Regulations (including Regulation 38) have been complied with, before issuing a completion certificate. However, there is no requirement for the Local Authority to consult the local Fire and Rescue Authority prior to issuing a completion certificate.

There are equivalent requirements for Approved Inspectors to take reasonable steps to enable them to be satisfied, within the limits of professional skill and care, that Building Regulations' requirements have been complied with⁵¹. As noted above, the Approved Inspector must also consult the Fire and Rescue Authority before issuing a final certificate.

Procedural guidance for building control bodies and Fire and Rescue Authorities on these consultation requirements is available at: <https://www.labc.co.uk/business/resources/building-regs-fire-safety-procedural-guidance>. This guidance, which has been updated, provides more detail on legislative requirements as well as good practice on how consultations should be managed.

⁴⁹ A corporate body or individual approved under Section 49 of the Buildings Act 1984 to carry out certain building control functions.

⁵⁰ Building Regulations' requirements for fire safety are set out in Part B of Schedule 1 to the Building Regulations 2010 (as amended). The regulatory requirements are supported by statutory guidance in Approved Document B Fire Safety: <https://www.gov.uk/government/publications/fire-safety-approved-document-b>

⁵¹ Regulation 8 of the Building (Approved Inspectors) Regulations 2010 (as amended).

There are also further consultation requirements in relation to fire safety matters. For example, under Section 15 of the Building Act, a Local Authority must consult the Fire and Rescue Authority if it proposes to issue a relaxation from a Building Regulations' requirement relating to fire, structure and means of escape.

Considerations

There are many examples of good practice and strong working relationships between building control bodies and Fire and Rescue Authorities. However, stakeholders have raised concerns about the current arrangements. These include that information in plans about fire safety matters has been identified as insufficient, inconsistent, or supplied too late. Responses from the Fire and Rescue Authorities may be received late by building control bodies which makes it difficult to meet the statutory deadlines for approving plans.

This can mean that work may proceed without important issues about access and facilities for the Fire and Rescue Authority or compliance with FSO requirements being addressed adequately. In worst case scenarios, this could lead to the Fire and Rescue Authority having to take enforcement action under the FSO once a building is occupied, and a completion certificate or final certificate has been issued.

There are also concerns that fire safety information handed over under Regulation 38 may be inadequate and of little use to the Responsible Person. Dame Judith Hackett's report identified that fire safety information is often not present or is insufficient, which may mean that an adequate fire risk assessment cannot be undertaken.

We want to ensure the right information is consistently provided to the Fire and Rescue Authority to enable them to respond effectively and therefore make any statutory timescales achievable. We are therefore seeking views on introducing a new package of measures, driven by having a clear set of balanced, reciprocal obligations so that Fire and Rescue Authorities can be consulted effectively.

3.1 Better Information

Issue

The information supplied to the Fire and Rescue Authority will be based on what has been provided to the building control body by the person undertaking the building work.

Where the local authority is the building control body, full plans will need to have been deposited. Regulations require that, where Part B requirements apply, an extra two copies of plans should be supplied so that a set can be used as the basis for providing an appropriate package of information to the Fire and Rescue Authority. Approved Inspectors must provide the Fire and Rescue Authority with 'sufficient plans'.

If the Fire and Rescue Authority requires more information, then the building control body can request this from the person undertaking the work.

Proposals

We recognise there is value in standardising the information to be supplied. This will help building control bodies and Fire and Rescue Authorities in terms of processing the information, and developers so they know what they need to provide and how. Although Approved Document B does not provide specific guidance on information to be supplied, the Procedural Guidance does provide details of good practice on this and includes a pro forma setting out key information items.

Prescribing the use of a specific pro forma in regulations could inhibit flexibility. There may be occasions when it would be appropriate for the building control body to take a different approach to presenting the information to the Fire and Rescue Authority and we would not want to rule out customised local approaches. However, we would be interested in views on whether further specific guidance on information items, for example in Approved Document B, would be helpful. This could include setting out a prescribed list of characteristics of the building that must be recorded and handed over.

The Procedural Guidance notes that the building control body should have reviewed the plans prior to seeking the views of the Fire and Rescue Authority, to check whether they are likely to be compliant. This is to avoid situations where the Fire and Rescue Authority use resource commenting on plans which the building control body then rejects, or seeks changes to, on other grounds. The Government agrees that this is a sensible approach but that this is a matter for guidance rather than being prescribed in regulation.

Questions

Q116a. To what extent do you agree, that further guidance should be provided on the information which needs to be supplied?

Strongly agree	Tend to Agree	Neither agree nor disagree	Tend to Disagree	Strongly disagree	Don't know

Q116b. If you agree, please specify what information this should cover

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Q117. To what extent do you agree that a standardised set of building fire safety information requirements describing what information is to be provided would be helpful?

Strongly agree	Tend to Agree	Neither agree nor disagree	Tend to Disagree	Strongly disagree	Don't know

Q118. To what extent do you agree that a standardised format for providing the above information would be helpful?

Strongly agree	Tend to Agree	Neither agree nor disagree	Tend to Disagree	Strongly disagree	Don't know

3.2 Plans Certificates

Issue

Where an Approved Inspector is the building control body, they can, at the request of the person undertaking the work, issue a plans certificate to the local authority alongside or after the initial notice. A plans certificate is a statement confirming that the Approved Inspector has checked the plans of the proposed building work and considers them to be compliant with building regulations. This is currently a voluntary arrangement.

Some stakeholders argue that plans certificates should be mandatory for buildings covered by the FSO. They argue that mandating a plans certificate would require plans to be checked up front and provide a stronger basis for seeking the views of the Fire and Rescue Authority, therefore preventing any wasted resource working on plans which are not fully developed and assessed as meeting Building Regulations.

Proposal

We recognise the arguments for mandating plans certificates for buildings covered by the FSO, however there are some important issues to consider. Detailed design information may not be fully available at the outset of a project and design changes may be made as work progresses. Therefore, a single point at which plans have to be checked before work can start may reduce the flexibility for Approved Inspectors to carry out their functions. Local Authorities can set conditions when they approve plans to take account of the fact that some design information may not be available until later in the project. A similar approach to enable plans certificates to be issued with conditions could be used if plans certificates were mandated.

It might be possible to limit the mandating of plans certificates to situations where work impacts on fire or structural safety matters, as these represent the highest risks. However, this would mean that work on other important Building Regulations' matters, such as on access or energy efficiency, would not require plans certificates.

Mandating plans certificates might involve costs for persons undertaking the work and for Approved Inspectors. We would expect this to be factored into the contractual arrangements which Approved Inspectors have with their clients.

As an alternative to mandatory plans certificates, further guidance could be provided on defining what adequate plans under Regulation 12 of the Building (Approved Inspector) Regulations may mean. This, combined with the recommendation in the Procedural Guidance for building control bodies to review plans for compliance with the Building Regulations' requirements before consulting the Fire and Rescue Authority, might address the problems which have been identified. Changes to legislation would be needed to mandate plans certificates.

The Government would welcome views on these issues.

Questions

Q119. To what extent do you agree that plans certificates should be mandated for FSO buildings?

Strongly agree	Tend to Agree	Neither agree nor disagree	Tend to Disagree	Strongly disagree	Don't know

Q120. To what extent do you agree that plans certificates could allow for conditions to be set?

Strongly agree	Tend to Agree	Neither agree nor disagree	Tend to Disagree	Strongly disagree	Don't know

Q121. To what extent do you agree that plans certificates should be mandated only where building work affects fire or structural safety matters?

Strongly agree	Tend to Agree	Neither agree nor disagree	Tend to Disagree	Strongly disagree	Don't know

Q122. As an alternative, to what extent do you agree that further guidance would be sufficient?

Strongly agree	Tend to Agree	Neither agree nor disagree	Tend to Disagree	Strongly disagree	Don't know

Q123. Please explain your views on plans certificates further:

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3.3 Timely Consultation

Issue

Under current legislation, where a local authority is acting as the building control body, consultation is required with the Fire and Rescue Authority when plans for building work are deposited and before those plans are passed.⁵² Where an Approved Inspector is the building control body, consultation is required with the Fire and Rescue Authority before or as soon as practicable after an initial or amendment notice has been issued, and before a plans certificate or final certificate is given.⁵³

Although there are no requirements for pre-application consultation, developers are encouraged to engage early with building control bodies and the Fire and Rescue Authority on their plans, particularly if novel or complex fire engineered approaches to fire safety are being considered. This helps expedite the review of plans when these are submitted formally.

It is good practice for the building control body to reconsult the Fire and Rescue Authority if major changes to the design are made during the construction phase, although there is no requirement for the Fire and Rescue Authority to be consulted whilst work is underway (other than if an Approved Inspector issues an amendment notice). This could lead to situations where design changes are made outside of the formal consultation frameworks, which can then lead to the need to make alterations when the building is to be occupied as a result of non-compliance with FSO requirements.

Proposal

We recognise there are challenges to prescribing specific points during the construction phase when consultation should be undertaken, as this will largely be dependent on the project. However, we would be interested in views on whether additional consultation points should be prescribed, and if so, when these should be. For example, there is no explicit requirement for consultation before a local authority issues a completion certificate, though an Approved Inspector must do so before issuing a final certificate.

We would also welcome views on whether further guidance would be helpful to make clear the expectation for building control bodies to re-consult with Fire and Rescue Authorities when major changes have been made to the design.

Questions

Q124a. To what extent do you agree that there are additional consultation points that could be specified in legislation or guidance?

⁵² Under Article 45 of the FSO

⁵³ Regulation 12 of the Building (Approved Inspectors) Regulations 2010 (as amended).

Strongly agree	Tend to Agree	Neither agree nor disagree	Tend to Disagree	Strongly disagree	Don't know

Q124b. If yes, please specify what these points are and whether these should be specified in legislation or guidance?

3.4 Appropriate Response Times

Issue

It is important that Fire and Rescue Authority responses are timely to enable their views to be considered by the building control body. Currently the Approved Inspector regulations prescribe a 15 calendar day period from the date of consultation before an initial or amendment notice or plans, or final certificate can be issued. However, there is no specified timetable in the FSO for the Fire and Rescue Authority to respond to Local Authorities. Responses will, however, need to be provided within the statutory timetable within which plans must be approved or rejected by the local authority (currently 5 weeks, extendable to two months by agreement between the local authority and person who has deposited the plans). The Procedural Guidance recommends that Fire and Rescue Authority advice in response to a consultation should be provided within 15 working days. By comparison, planning legislation requires specifically named statutory consultees to respond within 21 days.⁵⁴

Proposal

We are therefore consulting on whether, or not, there should be a consistent statutory timeframe for Fire and Rescue Authority consultation responses. A statutory timeframe could provide clarity over what should happen and when. However, we recognise that for some projects a set timeframe may be difficult to achieve due to the complexity of the project and potential need to seek further information. This may suggest that a more flexible approach is required providing the option to extend timescales in some specific cases, or for staged responses by the Fire and Rescue Authority. We recognise that this extension to the timescale would need to be with the agreement of all parties involved including developer, building control body and Fire and Rescue Authority. We also recognise that setting timescales will only be effective if the process agreed for obtaining information from those undertaking building work and providing this to the Fire and Rescue Authority operates effectively.

Questions

⁵⁴ Article 22 of The Town and Country Planning (Development Management Procedure) (England) Order 2015: <http://www.legislation.gov.uk/uksi/2015/595/article/22/made>

Q125. To what extent do you agree that there should be a fixed statutory timeframe in legislation for response by Fire and Rescue Authorities (upon receipt of the appropriate information from building control bodies)?

Strongly agree	Tend to Agree	Neither agree nor disagree	Tend to Disagree	Strongly disagree	Don't know

Q126a. If a statutory timeframe were to be introduced in legislation, to what extent do you agree that it should be:

a. 15 calendar days

Strongly agree	Tend to Agree	Neither agree nor disagree	Tend to Disagree	Strongly disagree	Don't know

b. 21 calendar days

Strongly agree	Tend to Agree	Neither agree nor disagree	Tend to Disagree	Strongly disagree	Don't know

c. other – please specify.

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Q126b. Please explain your response

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Q127. To what extent do you agree that there should be a flexible arrangement where all parties involved including developer, building control body and Fire and Rescue Authority are able to agree an extension to the timeframe to meet the need/s of the specific project?

Strongly agree	Tend to Agree	Neither agree nor disagree	Tend to Disagree	Strongly disagree	Don't know

Q128. Please note any other factors we should consider relating to introducing statutory timeframes for consultation between building control bodies and Fire and Rescue Authorities.

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3.5 Enabling Dispute Resolution

Issue

We recognise on occasion that building control bodies and Fire and Rescue Authorities may not agree on whether plans deposited demonstrate compliance because they will be reviewing the plans from the perspective of their different roles and legislative requirements. In cases where issues arise, the building control body should have regard to the advice of the Fire and Rescue Authority but ultimately the building control body is the final decision maker.

Proposal

Currently any disputes should be escalated within the building control body and Fire and Rescue Authority for resolution, working with the person doing the building work to develop solutions which will satisfy Building Regulations' and future FSO requirements. There is no existing independent advisory function to help resolve disputes. The sector is best placed to help individual building control bodies and Fire and Rescue Authorities resolve any differences in individual cases. It has been suggested that representatives of building control body organisations and the National Fire Chiefs Council could provide this advisory role through an independent panel. This would not take away from the responsibility of the building control body to take decisions on compliance, and a panel would need to operate within the statutory timescales for approving plans of building work, but this might offer an appropriate dispute resolution mechanism. This could be set up as a non-statutory independent mediation panel. The Government would welcome evidence and views on; whether the current arrangements could benefit from a mediation panel; the status of a panel; and how it should be set up.

Questions

Q129a. Are there problems with resolving disputes between building control bodies and Fire and Rescue Authorities which could benefit from a mediation panel with appropriate representative bodies providing advice on resolving disputes?

Strongly agree	Tend to Agree	Neither agree nor disagree	Tend to Disagree	Strongly disagree	Don't know

Q129b. Please explain your answer

Q130. Which bodies should be involved?

3.6 Better Guidance

Issue

We recognise any changes would need to be underpinned by new guidance to provide clarity and support to the new arrangements. We welcome the revised Procedural Guidance which has been published by Local Authority Building Control with the National Fire Chiefs Council and the Association of Consultant Approved Inspectors and have commended it to building control bodies. The Government shortly intends to publish a manual to the Building Regulations which will reference the Procedural Guidance.

Planning legislation allows for statutory consultees at local level to refer to standing advice produced at a national level by bodies such as the Environment Agency, which is intended to cover common situations, rather than having to produce their own advice from scratch. There may be limits to its use by Fire and Rescue Authorities at a local level of national standing advice on how to check fire safety issues arising from plans for building work as these are often project specific. Approved Document B already provides guidance on compliance with fire safety requirements in common building situations, and the Procedural Guidance provides good practice guidance for building control bodies and Fire and Rescue Authorities.

Proposal

The Government considers that the principle of being able to refer to standing advice produced at the national level for use at the local level, rather than having to develop specific advice on each occasion could help Fire and Rescue Authorities respond more easily. However, as noted, there may be limitations on how effective this could be because of the specific nature of building work. Nevertheless, the Government would be interested in views on whether further guidance or standing advice for use at the local level would be helpful, or whether the combination of current Approved Document B guidance and the Procedural Guidance is sufficient.

Questions

Q131a. To what extent do you agree that standing advice, separate to but complementing Approved Document B and the Procedural Guidance, for use at the local level would be helpful?

Strongly agree	Tend to Agree	Neither agree nor disagree	Tend to Disagree	Strongly disagree	Don't know

Q131b. If so, please specify all areas it would be helpful to address

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3.7 Fire Safety Information (Regulation 38)

Issue

Currently Regulation 38 of the Building Regulations requires that fire safety information is provided to the Responsible Person⁵⁵ for premises subject to the FSO by the person carrying out the work. This requirement applies when building work involves the construction or extension of a building, or a material change of use, but not when there is a material alteration.

The Building Regulations require the fire safety information to be such as to enable the Responsible Person to operate and maintain the building with reasonable safety. Revised guidance on fire safety information to be handed over was provided in the new version of Approved Document B published last year.

Building control bodies must check that the requirements of Regulation 38 (as with other Building Regulations' requirements) have been complied with before issuing a completion or final certificate. The Procedural Guidance recommends building control bodies obtain written confirmation from the developer to confirm that fire safety information has been handed over. However, the roles of each party, and in particular the requirements for building control bodies to check that information is adequate, have been argued by stakeholders to be unclear. Dame Judith Hackitt identified that compliance is poor, and the fire safety information handed over is often inadequate.

It is proposed that there will be new arrangements for handing over fire safety information for high-rise residential buildings in scope of the reforms recommended by Dame Judith Hackitt in her review of Building Regulations and Fire Safety. Regulation 38 will still apply to buildings outside the scope of these reforms.

Proposal

Regulation 38 does not apply currently to all building work. In particular, the fact that it does not apply when material alterations are undertaken means that fire safety information is not required to be handed over following major refurbishments. We recognise the arguments for extending the application of Regulation 38 and would welcome views on extending its application. The information to be handed over when work involves a material alteration would need to be proportionate to the work involved.

We have identified three options for improving the process for ensuring compliance with Regulation 38:

Option 1: For the building control body to be required to approve the fire safety information which is to be handed over and prescribing in more detail what information should be provided. This could include a requirement to consult the Fire and Rescue Authority as part

⁵⁵ The responsible person is responsible for undertaking the fire risk assessment and implementing fire precaution measures under the Fire Safety Order.

of any formal consultation requirements between the building control body and the Fire and Rescue Authority before the issue of a completion or final certificate. This would enable the Fire and Rescue Authority to identify any inadequacies in the information which might compromise compliance with FSO requirements. However, it is the responsibility of the person undertaking the work to ensure that adequate fire safety information is prepared and handed over and they should not rely on checks by the building control body or Fire and Rescue Authority to ensure this has been done. We recognise that this could also delay occupation of the building.

Option 2: To formalise the process for persons undertaking work to confirm that fire safety information has been handed over, for example by requiring them to provide a formal notice to the building control body (including confirmation from the Responsible Person) to that effect. Issue of a completion or final certificate could be made contingent on the building control body receiving this notice and being content that the information has been handed over.

We recognise that this would need to be supported by clarity in roles and responsibilities, making clear what is expected from each party under the current and/or new arrangements.

Option 3: To improve guidance on good practice on how fire safety information should be assembled and presented so that it is usable and accessible by the Responsible Person. As noted, updated guidance on Regulation 38 was included in the revised Approved Document B. Also, the British Standards Institute (BSI) has started work on a new British Standard on the Digital Management of Fire Safety Information (BS 8644). This is intended to be a code of practice on the management and presentation of information relevant to fire safety so that it remains accessible, available, and useable by all parties through the life cycle of the building. The scope of BS 8644 is intended to cover the handover of fire safety information throughout the development stages and across all building types, including the handover of fire safety information under Regulation 38. The Government welcomes this work and would be interested in views as to whether a BS of this sort would fulfil the need for further guidance.

Questions

Q132a: To what extent do you agree that the application of Regulation 38 should be extended to material alterations and/or other types of building work?

Strongly agree	Tend to Agree	Neither agree nor disagree	Tend to Disagree	Strongly disagree	Don't know

Q132b. If you agree, please specify which types of work.

Q133. To what extent do you agree that the building control body should have to approve the fire safety information to be handed over?

Strongly agree	Tend to Agree	Neither agree nor disagree	Tend to Disagree	Strongly disagree	Don't know

Q134. To what extent do you agree that a review of the Regulation 38 information should be included in any formal consultation requirements between the building control body and the Fire and Rescue Authority prior to the issue of a completion or final certificate?

Strongly agree	Tend to Agree	Neither agree nor disagree	Tend to Disagree	Strongly disagree	Don't know

Q135. To what extent do you agree that there should be a requirement for the developer to provide a formal notice to the building control body that fire information has been handed over (including confirmation from the Responsible Person to that effect)?

Strongly agree	Tend to Agree	Neither agree nor disagree	Tend to Disagree	Strongly disagree	Don't know

Q136. To what extent do you agree that further guidance would be useful, for example through a British Standards such as BS 8644?

Strongly agree	Tend to Agree	Neither agree nor disagree	Tend to Disagree	Strongly disagree	Don't know

Q137. Overall, please state which of the three options is your preference.

- a) Option 1;
- b) Option 2;
- c) Option 3; or
- d) None.

Please explain the reason/s for your preference:

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3.8 Impacts

Issue

Overall, these proposals codify good practice on how consultations should be undertaken to support compliance with Building Regulations and the FSO. Where good consultations are undertaken, costs should be minimal and there are potential benefits.

The proposals are also intended to help building control bodies and Fire and Rescue Authorities manage the process more efficiently so that they can focus their time on key fire safety issues and provide better assurance that fire safety issues have been identified and dealt with. The impact assessment identifies benefits in improving efficiency, effectiveness and robustness of current arrangements.

There will be extra costs involved with the proposals. The impact assessment suggests the main costs would be time in producing and familiarisation with additional/new guidance, producing additional plans certificates, the extension of requirements to provide fire safety information and administrative costs. These may be offset by time saved as a result of improved processes and some costs will be recoverable for local authorities through charging. There are also non monetised benefits for those undertaking building work through a more certain process and residents and building users that fire safety issues are being properly addressed.

We want to ensure any potential changes to the current arrangements do not result in unintended consequences or impose unnecessary extra costs. Therefore, we would like to understand what benefits and / or additional costs to your work / organisation you foresee any of the potential changes resulting in.

Questions

Q138a. If implemented, to what extent do you agree that the changes would provide benefits to your work?

Strongly agree	Tend to Agree	Neither agree nor disagree	Tend to Disagree	Strongly disagree	Don't know

Q138b. Please specify how

Q139a: If implemented, what extent do you agree the changes would result in any additional costs to your organisation?

Strongly agree	Tend to Agree	Neither agree nor disagree	Tend to Disagree	Strongly disagree	Don't know

Q139b. Please specify how

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Annex A: Grenfell Tower Inquiry Phase 1

Report recommendations that require a change in law

- **Para 33.4** (...) that question (of height) was not the subject of examination in Phase 1 and it is therefore not possible for me to make a recommendation about it at this stage. It is, however, a matter which will be examined in Phase 2.
- **Recommendation (para) 33.10 (d)** - The owner and manager of every high-rise residential building be required by law to provide local FRS with information about design of its external walls as well as details of the materials they are constructed from and inform FRS of any material changes made to them.
- **Recommendation (para) 33.12** - The owner and manager of every high-rise residential building be required by law:
 - (a) to provide their local fire and rescue services with up-to-date plans in both paper and electronic form of every floor of the building identifying the location of key fire safety systems.
 - (b) to ensure that the building contains a premises information box, the contents of which must include a copy of the up-to-date floor plans and information about the nature of any lift intended for use by the fire and rescue services.
- **Recommendation (para) 33.13** - The owner and manager of every high-rise residential building be required by law:
 - (a) to carry out regular inspections of any lifts that are designed to be used by firefighters in an emergency and to report the results of such inspections to their local fire and rescue service at monthly intervals.
 - (b) to carry out regular tests of the mechanism which allows firefighters to take control of the lifts and to inform their local fire and rescue service at monthly intervals that they have done so.
- **Recommendation (para) 33.22** – The owner and manager of every high-rise residential building be required by law:
 - (c) to draw up and keep under regular review evacuation plans, copies of which are to be provided in electronic and paper form to their local fire and rescue service and placed in an information box on the premises;
 - (d) to prepare personal emergency evacuation plans for all residents whose ability to self-evacuate may be compromised (such as persons with reduced mobility or cognition);

(f) to include up-to-date information about persons with reduced mobility and their associated PEEPs in the premises information box.

- **Recommendation (para) 33.28** - the owner and manager of every residential building containing separate dwellings (whether or not it is a high-rise building) be required by law to provide fire safety instructions (including instructions for evacuation) in a form that the occupants of the building can reasonably be expected to understand, taking into account the nature of the building and their knowledge of the occupants.
- **Recommendation (para) 33.29 (b)** - The owner and manager of every residential building containing separate dwellings (whether or not they are high-rise buildings) be required by law to carry out checks at not less than three-monthly intervals to ensure that all fire doors are fitted with effective self-closing devices in working order.
- **Recommendation (para) 3.30** - All those who have responsibility in whatever capacity for the condition of the entrance doors to individual flats in high-rise residential buildings, whose external walls incorporate unsafe cladding, be required by law to ensure that such doors comply with current standards.

Relevant non-legislative Grenfell Tower Inquiry Phase 1 recommendations

- **Recommendation (para) 33.22 (d)**: In all high-rise residential buildings (both those already in existence and those built in the future) be equipped with facilities for use by the Fire and Rescue Services enabling them to send an evacuation signal to the whole or a selected part of the building by means of sounders or similar devices;
- **Recommendation (para) 33.27**: In all high-rise blocks of flats floor numbers be clearly marked on each landing within the stairways and in a prominent place in all lobbies in such a way as to be visible both in normal conditions and in low lighting or smoky conditions.

Annex B: Glossary

Glossary of terms used in the Fire Safety Consultation.

Table 1. Simple guide together with full definitions of terms used in the Fire Safety Order.

Domestic Premises	<p>Private or residential dwellings, where people live, not including the parts used in common and other non-domestic parts of a building</p> <p><u>Article 2 FSO definition of “domestic premises”</u> means premises occupied as a private dwelling (including any garden, yard, garage, outhouse, or other appurtenance of such premises which is not used in common by the occupants of more than one such dwelling).</p>
General fire precautions (Article 4 FSO)	<p>These are defined in Article 4 of the FSO as meaning:</p> <ul style="list-style-type: none"> • Having measures in place to reduce the risk of fire and the risk of spread of fire in premises, • Having measures in place so that those in the premises can escape in case of a fire, • Ensuring that any escape method will be safe and can be used (i.e. not blocked up), • Having firefighting measures on the premises, • Having fire detection and fire warning measures on the premises, • Having measures in place for action to be taken in the event of a fire on the premises including fire safety instructions which should include training and instructions for employees and measures to mitigate the effects of the fire. <p>The above precautions do not include special, technical or organisational measures required to be taken in a workplace in connection with a work process to reduce the likelihood of fire and to which separate legal requirements apply. ‘Work process’ in this context means the use of plant or machinery and the storage of any dangerous substances.</p>

Table 2. Definitions of terms used elsewhere in the consultation

Accountable Person	<p>The Accountable Person (AP) is the dutyholder responsible for the meeting the majority of the statutory obligations for occupied higher risk buildings. The Accountable Person is identified as the person who has the legal interest in possession of the common parts of the building (and if not the same person), the person who has repair and maintenance obligations for those parts. For the purposes of the Building Safety Bill 2020 the common parts</p>
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	includes the structure and exterior of the building as well as any part provided for the use, benefit and enjoyment of the residents in the building. They may be an individual, partnership or corporate body and also means there can be multiple Accountable Persons. Provisions has been made for a duty of cooperation and coordination between those Accountable Persons to ensure that a whole building approach can be taken.
Approved Document B	Approved guidance on ways to comply with the fire safety requirements in Part B of Schedule 1 to the Building Regulations 2010.
Approved Inspector (AI)	Companies or individuals approved under Part 2 section 49 of the Building Act 1984 to carry out building control functions as an alternative to local authority. Almost all are private sector bodies.
Building Control	A statutory process of assessing plans for building work and checking building work on site to decide whether the plans and work comply with the requirements in the Building Regulations.
Building Control Bodies	A building control body is responsible for checking compliance with Building Regulations in England and Wales. They can be either a local authority or an Approved Inspector.
Building Regulations Advisory Committee (BRAC)	The Committee (appointed under the Building Act 1984 Part 1 Section 14) advises the Secretary of State in England on proposals or make or change building regulations and the system in which they operate. The Committee also provides expert advice to the Secretary of State on related matters such as the health and safety, welfare and convenience of people in and around buildings; energy conservation and the sustainability of buildings.
Building Safety Manager	The Building Safety Manager (BSM) is an individual or organisation who is appointed by the Accountable Person and whose principal role is to support the Accountable Person in the management of fire and structural safety in an occupied higher risk building. The Building Safety Manager will have a number of separate statutory duties placed on them for which they are themselves responsible. For example, the BSM would be obliged to report structural and fire safety occurrences which could cause a significant risk to life safety to the Building Safety Regulator as part of the Mandatory Occurrence Reporting regime.
Building Safety Regulator	The proposed Building Safety Regulator will be established within the Health and Safety Executive under the proposed Building Safety Bill and will have three broad functions. <ul style="list-style-type: none"> • Implementing the new enhanced regulatory regime for higher risk buildings (in scope). • Overseeing the safety and performance of all buildings • Assisting and encouraging competence among the built environment industry, and registered building inspectors.

Compartmentation	Construction designed to prevent the spread of fire to or from another part of the same building or an adjoining building. For example, compartment walls and floors with a rated period of fire resistance are provided to separate individual flats.
Dutyholder	Duty holder - Article 5(3) provides that any duties imposed on the Responsible Person under the FSO, or by regulations, shall also be imposed on every other person who has to any extent control of relevant premises so far as the requirements relate to matters within his control. This includes a person with obligations of any extent under a contract or tenancy in relation to maintenance or repair of premises or the safety of any premises, and such a person is to be treated as a person having control of the premises to the extent of the obligation.
Fire Risk Assessor	A person engaged with by a Responsible Person to carry out a Fire Risk Assessment.
Fire and Rescue Authority / Fire and Rescue Service	Fire and Rescue Authorities have the statutory responsibility to carry out the functions set out in the Fire and Rescue Services Act 2004. Fire and Rescue Services are the operational part of the Fire and Rescue Authority
Housing Health and Safety Rating System (HHSRS)	A risk-based evaluation tool to help local authorities identify and protect against potential risks and hazards to health and safety from any deficiencies identified in dwellings. Under the Housing Act 2004.
Independent Expert Advisory Panel	Chaired by Sir Ken Knight, the government appointed the Expert Panel to advise the Secretary of State for Communities and Local Government on immediate building safety measures following the Grenfell Tower fire.
Joint Regulators Group (JRG)	Comprised of the Health & Safety Executive, Local Authority Building Control, the National Fire Chiefs Council, and the Local Government Association. The JRG provides advice on how best to implement the new regulatory regime for higher- risk buildings in scope.
Local Authority Building Control (LABC)	Local authorities have to provide a building control service in their area Local Authority Building Control (LABC) is a body which represents local authority building control bodies and provides services for them and others.
Responsible Person	In the Fire Safety Order “responsible person” means— (a) in relation to a workplace, the employer, if the workplace is to any extent under his control; (b) in relation to any premises not falling within paragraph (a)— (i) the person who has control of the premises (as occupier or otherwise) in connection with the carrying on by him of a trade, business or other undertaking (for profit or not); or (ii) the owner, where the person in control of the premises does not have control in connection with the carrying on by that person of a trade, business or other undertaking.
Safety Case	The draft Building Safety Bill proposes the Safety Case as a report the Accountable Person for an occupied building (subject

	<p>to the new regime) must prepare setting out – (a) the accountable person’s assessment of the building safety risks relating to the building, and (b) any steps that have been taken in relation to those risks. The Safety Case Report demonstrates that the Accountable Person has taken all reasonable steps to prevent the occurrence of a major incident and reduce the severity of such an event.</p>
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Contact details and how to respond

Please respond to this consultation online at:

<https://www.gov.uk/government/consultations/fire-safety>

Alternatively, you can send in electronic copies to:

FireSafetyUnitconsultations@homeoffice.gov.uk

Alternatively, you may send paper copies to:

Fire Safety Unit
Home Office, 2 Marsham Street,
Fry Building London
SW1P 4DF

Complaints or comments

If you have any complaints or comments about the consultation process you should contact the Home Office at the above address.

Extra copies

Further paper copies of this consultation can be obtained from the above address and it is also available online at <https://www.gov.uk/government/consultations/fire-safety>

Alternative format versions of this publication can be requested from:

FireSafetyUnitconsultations@homeoffice.gov.uk

Publication of response

A response to this consultation will be published online at:
<https://www.gov.uk/government/consultations/fire-safety>

Representative groups

Representative groups are asked to give a summary of the people and organisations they represent when they respond.

Confidentiality

Information provided in response to this consultation may be published or disclosed in accordance with the access to information regimes (these are primarily the Freedom of Information Act 2000 (FOIA), the Environmental Information Regulations 2004, and the Data Protection Act 2018/GDPR).

If you want the information that you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory Code of Practice with which public authorities must comply and which deals, amongst other things, with obligations of confidence. In view of this

it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information, we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Home Office.

The Home Office will process any personal data which you provide in your response to the consultation in accordance with data protection legislation, the Home Office Personal Information Charter and Privacy Notice.

Consultation principles

The principles that government departments and other public bodies should adopt for engaging stakeholders when developing policy and legislation are set out in the consultation principles.

<https://www.gov.uk/government/publications/consultation-principles-guidance>



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