



# **Government Response to the Housing, Communities and Local Government Select Committee Report on the Independent Review of Building Regulations and Fire Safety: Next Steps**

Presented to Parliament

by the Secretary of State for Housing, Communities and Local Government

by Command of Her Majesty

September 2018





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## Introduction

1. The Government is committed to ensuring residents of high-rise buildings are safe and feel safe, now, and in the future. We established a far-reaching programme of work following the disaster at Grenfell Tower. This included commissioning an independent, forward-looking review of the building regulations and fire safety system, led by Dame Judith Hackitt. The final report was published on 17 May.
2. We agree with Dame Judith's diagnosis in her report and the principles behind her recommendations and have sought views on how we should take the recommendations forward. We would like to thank the Housing, Communities and Local Government Select Committee for its report on 18 July, summarising the findings of its short inquiry into Dame Judith's report, and making a series of recommendations for the Government to consider. The Government supported the inquiry throughout, and the Minister of State for Housing appeared before the Committee on 2 July.
3. We welcome the support the Select Committee has given for many aspects of the independent report, and we agree with many of the Committee's recommendations. Indeed, the Secretary of State's statement<sup>1</sup> the day after the Committee's report outlined some of the work already underway on a number of the issues raised by the Committee. We will set out an implementation plan in the autumn with more details on how we are responding to Dame Judith's independent report. The Government has done a great deal to ensure that people are safe and that the issues raised by the Committee are addressed. We look forward to working with the Select Committee constructively on these issues in the months ahead.
4. This document outlines our response to each of the main recommendations made by the Committee.

## Responses to the recommendations

5. **Recommendation:** *While the Independent review focused on high-risk residential buildings of 10-storeys or more, many of these recommendations could and should be applied to a wider range of buildings and to the construction industry as a whole. The Government must therefore take as wide an approach as possible to the applicability and implementation of the recommendations in the Final Report. [Paragraph 13]*
6. **Government's response:** It is right that we must take a risk-based and proportionate approach, with a primary focus on buildings where oversight is needed most as the risks associated with a fire are greatest. But as Dame Judith acknowledged, ideas proposed in the Independent Report may have broader application. Our implementation plan later in the autumn will provide more details on how we are responding to Dame Judith's recommendations. But in the meantime we have already announced measures that could be applied to a wider range of buildings than just high-risk residential buildings of 10-storeys or more. For example, our Social Housing Green Paper, published on 14 August, sets out new measures to give residents a greater voice in the system. This includes developing a new programme to help residents to engage with their landlords on issues of building safety in social housing and establishing a pilot with a small group of social landlords who would innovate and trial options for communicating and engaging with residents on safety issues.

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<sup>1</sup> <https://www.gov.uk/government/news/government-investment-to-overcome-barriers-to-building>

7. We have also been clear that we will not hesitate to go further than the Hackitt recommendations where we deem it necessary, as we have shown through our consultation on proposals to ban the use of combustible materials in the external wall construction of high-rise buildings.
8. **Recommendation:** *The Government must immediately take forward its review of the current [building regulations] guidance as a matter of urgency, with the intention of publishing an updated version of Approved Document B before the end of the year. [Paragraph 27]*
9. **Government's response:** The Government agrees with the conclusions of Dame Judith Hackitt's review that the suite of Approved Documents guidance should be restructured and revised, to enhance their usability. The Government will set out its plans for doing this in the autumn. In the meantime, the Government launched a public consultation on a clarified version of Approved Document B (Fire Safety)<sup>2</sup>. On 19 July, the same day the consultation was launched, the Secretary of State also announced a wider technical review of the guidance on fire safety. We will publish a call for evidence in the autumn inviting views on the technical issues and further improvements that could be made in the Approved Document.
10. **Recommendation:** *We believe such a ban [on the use of materials which are not of limited combustibility] should apply not only to new high-rise buildings, but also to existing buildings over 18 metres, as well as those currently under construction. People in all high-rise residential buildings need to have certainty that their homes are safe. Further, the ban should apply to non-residential buildings where there is a particular and significant risk to life, such as residential homes, hospitals, student accommodation and hotels. Upon the completion of the consultation, the Government must, as a matter of the greatest urgency, bring forward the ban on the use of combustible materials in the cladding of these buildings. [Paragraph 37]*
11. **Government's response:** Our consultation on banning the use of combustible materials in the external walls of high-rise buildings closed on 14 August 2018. There were 460 responses from a range of individuals and organisations. The Government is currently analysing the consultation responses. The majority of respondents agreed with the intention of the consultation and the Government will publish its response in the autumn.
12. **Recommendation:** *The Government should fully fund the replacement of any cladding on existing buildings which had been permitted, but is subsequently banned as a consequence of the consultation. In those circumstances, this funding should be made available to both public and private sector landlords. [Paragraph 38]*
13. **Government's response:** The Government has already provided funding for remediation of cladding in the social sector. In the private sector more and more firms are doing the right thing and replacing cladding themselves without the costs falling to leaseholders. The Government will consider what further steps may be appropriate as part of the detailed analysis of the consultation responses and the wider reforms proposed by the Independent Review.
14. **Recommendation:** *We are unconvinced that Approved Document B bans the use of combustible materials as an external surface. Notwithstanding steps to ban the use of combustible materials on high-rise buildings, and its wider plans for the revision of Approved Document B, the Government must urgently revise Sections 12.5 to 12.7 of Approved Document B to provide much-needed clarity to the guidance as to what is, and what is not, acceptable. [Paragraph 45]*

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<sup>2</sup> <https://www.gov.uk/government/consultations/fire-safety-clarification-of-statutory-guidance-approved-document-b>

15. **Government's response:** As required under the Building Act, we recently consulted on banning the use of combustible materials in the external walls of high-rise residential buildings. Draft text that is in line with the intention to introduce the ban is also included in the clarified version of Approved Document B currently out for consultation. We will announce the outcome of the consultation on the ban in the autumn. The guidance will reflect the outcomes of the consultation.
16. **Recommendation:** *The Independent Review was right to call for a more effective testing regime. It is clear that, while the BS 8414 test has many advocates, it does not have the full support of the entire industry. The Government should work with fire safety experts and the industry to agree a new testing regime that has much wider industry support and can be fully trusted. A new system should better reflect real-world conditions, reach near-incontestable conclusions, and be more transparent, with details of test failures and re-run tests made publicly available. [Paragraph 49]*
17. **Government's response:** Dame Judith Hackitt's report makes recommendations about the wider testing regime. We will set out an implementation plan in the autumn with more details on how we are responding to the report.
18. The advice issued by the Expert Panel is that wall systems that have met BS 8414 can be considered to be safe if they have been correctly installed and maintained. However, the Government recognises that the BS 8414 test may offer a less straightforward way of meeting the requirements of the building regulations than a ban on the use of combustible materials on external walls. We have therefore stated our intention to ban combustible materials in the external walls of high-rise residential buildings subject to consultation<sup>3</sup>.
19. **Recommendation:** *The Government and the United Kingdom Accreditation Service (UKAS) should do more to ensure that all product testing bodies operate to the same high standards. The Government must take steps to ensure manufacturers are not incentivised to choose the most lenient testing bodies. It is vital that we create a system in which all approved testing bodies operating in the industry are fully-independent from the companies and products they are testing. Testing bodies should also publish their test failure rates, so there can be greater transparency and benchmarking within the industry. [Paragraph 56]*
20. **Government's response:** It is the role of UKAS to accredit product testing bodies to ensure their competence, impartiality and performance capability. We are concerned to hear if this is not the case, and would be grateful if the Committee would pass on any evidence in their possession which demonstrates that testing bodies are not complying with minimum standards. Dame Judith Hackitt's report also makes recommendations about the wider testing regime, including its transparency. We will set out an implementation plan in the autumn with more details on how we are responding to the report.
21. **Recommendation:** *The Government should publish clear guidance outlining the specific circumstances in which desktop studies may be permitted to be used. [Paragraph 64]*
22. **Government's response:** In response to Dame Judith Hackitt's recommendation in her interim report we conducted a consultation, which closed on 25 May, on restricting the use of assessments in lieu of tests (desktop studies). There were 235 responses from a range of individuals. We are currently analysing the consultation responses and will publish a government report in the autumn. The majority of respondents agreed with Dame Judith's

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<sup>3</sup> <https://www.gov.uk/government/consultations/banning-the-use-of-combustible-materials-in-the-external-walls-of-high-rise-residential-buildings>



recommendation to restrict the use of desktop studies to ensure that they are only used where appropriate and by people with suitable competence. The Government has already made clear the circumstances in which it is not appropriate to use assessments when seeking to demonstrate the performance of fire doors. However, the majority also do not agree that the use of assessments in lieu of fire tests should be prohibited for all construction products.

23. **Recommendation:** *Where structurally feasible, sprinklers should be retro-fitted to existing high-rise residential buildings to provide an extra layer of safety for residents. The Government should make funding available to fit sprinklers into council and housing association-owned residential buildings above 18 metres, and issue guidance to that effect to building owners in the private sector. [Paragraph 68]*
24. *We heard strong evidence recommending the Government require sprinkler systems be installed in a wider range of buildings, including student accommodation, hospitals and large commercial warehouses. The Government should undertake a consultation into whether it would be appropriate to require the installation of sprinkler systems in these buildings too. [Paragraph 69]*
25. **Government's response:** Since 2007, building regulations guidance has stated that flats in new high-rise residential buildings over 30 metres should have sprinklers. Retrofitting sprinklers in existing buildings is a matter for the responsible person to ensure fire safety in the building. An appropriate level of fire safety can be achieved without the need to retrofit sprinklers and, as the Committee notes, it may not be feasible to install a system, for example for structural reasons. It is for building owners to seek professional advice and decide whether to fit sprinklers, on the basis of their assessment of the particular risk faced in their building(s). The Local Government Association has produced information, available online, on how building owners can deliver an appropriate level of fire safety in purpose-built blocks of flats. The Government intends to undertake a technical review of Approved Document B and will publish a call for evidence in the autumn. Possible changes to the guidance in Approved Document B, including on the use of sprinklers, will be considered in this review. The Government will also consider financial flexibilities for local authorities concerned with funding other essential fire safety works in buildings which they own.
26. **Recommendation:** *Our panels of industry representatives and fire safety experts have suggested a number of further sensible measures to improve the regulatory framework. We call on the Government to consider each of these proposals carefully prior to its planned statement later in the year on next steps and reflect on them in its response to this Report. [Paragraph 71]*
27. **Government's response:** The Government will carry out a wider technical review of the guidance on fire safety. We will publish a call for evidence in the autumn inviting views on the technical issues and further improvements that could be made in Approved Document B. The proposals from industry representatives and fire safety experts will be considered as part of this technical review.
28. **Recommendation:** *If the Government is to restore public confidence in the construction industry, then it must – as a matter of urgency – tackle the conflicts of interest that exist throughout the system. [Paragraph 73]*
29. **Government's response:** The Government is considering Dame Judith's recommendations for a more streamlined route for building regulation and what further measures we should take to remove the potential conflicts of interest where Approved Inspectors provide regulatory



oversight and also provide verification of compliance for clients design/engineering support services. The role of Approved Inspectors is a key focus of work to develop a simpler system removing any potential conflicts of interest between the regulator and the regulated. This will be a key element of the more robust proposition for the new regulatory system we are looking to create. We will publish further details in the autumn in the implementation plan.

30. Dame Judith also recommended the removal of all perceived conflicts of interest around fire and rescue authorities (FRAs) providing both fire design support and regulatory oversight. In response to these concerns, the Government included – for the first time – a section on trading in the Fire and Rescue National Framework for England, in the revised version published on 8 May 2018. The revisions require elected members and officers to be at all times aware of potential conflicts of interest when carrying out their roles for FRAs. Where FRAs have the power to trade and make a profit, members and officials acting as directors must ensure their commercial activities are performed in accordance with the requirements of the Local Government Act 2003, the Fire and Rescue Services Act 2004 (as amended by the Localism Act 2011), the Local Government Order 2009 and the Local Authorities (Goods and Services) Act 1970. FRAs must also ensure that such commercial activities are exercised through a company within the meaning of Part 5 of the Local Government and Housing Act 1989.
31. In addition, the newly created independent fire and rescue inspectorate (delivered by Her Majesty's Inspectorate of Constabulary and Fire & Rescue Services) is inspecting the effectiveness and efficiency of every FRA in England. This will measure how effective the FRA is at protecting the public through the regulation of fire safety, including enforcement action against those who fail to comply with fire safety regulations. The first inspection report will be published later this year with every FRA to be inspected by the end of 2019.
32. **Recommendation:** *Furthermore, it is clear that the ownership and responsibility of privately owned buildings is often complex. For example, some of these blocks do not have a single 'building owner', rather an owner of the modest freehold ground rent and the constituent long-leaseholders, the latter often being the only parties with a contractual obligation to carry out remedial works. We therefore recommend that the Government conduct an urgent review into responsibility and liability of such buildings to ensure the necessary work can be carried out for the safety of residents, which is paramount. The Government should then produce further subsequent guidance for building owners. [Paragraph 85]*
33. *While it is encouraging that an insurance company has recently accepted a claim to pay for remedial work on a private sector development in Greenwich, nevertheless, more needs to be done now to ensure that unsafe cladding is removed urgently. To avoid any further delay, we propose that the Government introduces a low-interest loan scheme for private sector building owners, to ensure that remedial work is carried out as quickly as possible and that costs need not immediately be passed on to leaseholders. [Paragraph 86]*
34. **Government's response:** The Government has been clear that building owners are legally responsible for ensuring residents' safety. They must undertake remediation action where potentially dangerous ACM cladding has been used and we have said that they should do all they can to protect leaseholders from incurring costs, either funding it themselves or looking at alternative routes such as insurance claims, warranties or legal action.
35. We are not persuaded that a review into responsibility for buildings is necessary; and would be concerned about the further delay that it could introduce into the process. We have written to the relevant building owners to remind them of their responsibilities and to highlight that, where building owners do not take action, local authorities have extensive enforcement powers

to ensure that required remediation is undertaken. We welcome Mace's decision to cover the full costs of recladding two blocks at its Greenwich Square Project in south-east London. We also welcome the decision of developers such as Barratt Developments, Legal & General, Taylor Wimpey and Peabody to pay for work to remove cladding. We call on others to follow their example.

36. We have met leaseholders to understand their concerns, and industry to discuss the barriers to remediation and to work on solutions for individual building owners who cannot resolve building remediation themselves. We do not rule out any options if industry, individual building owners or developers do not come forward with their own solutions. Our new minister-chaired taskforce will be charged with ensuring that remediation plans are put in place swiftly across all private sector buildings with ACM cladding systems.

## **Conclusion**

37. We are committed to learning the lessons from the Grenfell disaster and delivering change to ensure such a devastating incident can never happen again. We thank the Committee for its Inquiry and all who have participated. The Government will continue to take into account the Committee's views when producing future policy and setting out an implementation plan in the autumn.
38. We will continue our work to ensure residents of high-rise buildings are safe and feel safe, now, and in the future.



