

# A Road Map to safer buildings in Wales

Recommendations for Welsh Government to take forward change to  
improve the safety of residential building in Wales

Produced by the Building Safety Expert Group

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# Building Safety Expert Group

## Remit

The Building Safety Expert Group was convened for the first time in October 2018. Over the intervening period it has met five times to discuss the key issues highlighted by Dame Judith Hackitt's Independent Review of Building Regulations and Fire Safety ('Hackitt Review').

The remit of the Group was to identify the parameters of a Welsh response to the issues raised by the Hackitt Review; it was not to give advice on each individual recommendation. We provide an advised steer regarding the applicability of the Review to the Welsh context (including areas that a Welsh response could strengthen or develop further) and areas for particular priority in terms of implementation.

We also highlight areas where we do not believe that there is merit in Welsh Government deviating from a UK-wide approach. In such cases, Welsh Government should work in close partnership with other UK jurisdictions.

We recommend this report form the basis of a detailed programme of work to be taken forward by the Welsh Government, starting in the Spring. Our hope is that that this work will support Welsh Government to:

***“Improve the landscape within which building regulations and fire safety measures operate in Wales in order to improve the safety of higher risk residential buildings.”***

## Members

Andy Fry, Chief Fire and Rescue Advisor and Inspector for Wales

Andrew Gordon, Institute of Fire Engineers

Carolyn Merrifield, President, Royal Society of Architects in Wales

Ceri Doyle, Newport City Homes

Chris Davies, Chief Fire Officer, Mid & West Wales FRS

Dave Holland, Directors of Public Protection Wales

Geraint Morgan, Managing Director, Watkin Jones Group (Builder and Developer)

Ian Maddox, Local Authority Building Control (LABC), Powys CC

Jim McKirdle, Welsh Local Government Association (WLGA)

Paul Williams, Approved Inspector (ACAI) and National House Building Council

Stuart Ropke, Community Housing Cymru

The Group also sought advice from the following regarding their particular areas of expertise:

Sandra Ashcroft and Michael Thomas (Health and Safety Executive)

Dr Debbie Smith (Building Research Establishment)

# Introduction

The Independent Review of Building Regulations and Fire Safety was established by, and reported to, the UK Government in the wake of the tragic events at Grenfell Tower. It produced both an [Interim](#) and [Final](#) Report. The Review, chaired by Dame Judith Hackitt (the ‘Hackitt Review’) concludes that the current overall system is not working effectively and needs to be overhauled. The final report determines that the whole system of regulation, covering what is written down and the way in which it is enacted in practice, is not fit for purpose, leaving room for confusion as well as ways for shortcuts to be taken by those who want to.

We agree with the broad applicability of the issues raised by the Hackitt Review to Wales. Dame Judith describes a system lacking rigour and accountability which does not support a safety-focused culture at all stages of the building lifecycle. We agree with her view that the fundamental, systemic change is required and that reform should be taken forward in a considered and coherent manner which avoids the ‘cherry-picking’ of the easy to do at the expense of the longer-term actions that need to be taken. Such an approach must also extend to matters where a co-ordinated, cross-UK response is required or advantageous and where Welsh Government is working in partnership with other UK jurisdictions. It is evident that the necessary change will require significant extra resource and will come at a cost. Whilst Welsh Government should work closely with stakeholders to ensure that the resource and financial implications are fully considered, it is our view that the extra investment required is entirely justified in order to keep residents safe.

There is also a clear need for significant new legislation to deliver a new regulatory system and to introduce many of the changes we recommend. It is important that a future legislative programme is coherent, uses the most appropriate tools to drive the desired outcomes, and addresses inconsistencies in the current regulatory landscape. It will, of course, take time to get this right. But that is not to say that Welsh Government could not bring forward certain measures in the short term to make interim improvements to the system in Wales. We have highlighted where such steps could be taken as part of a first phase of system reform.

This report is not meant to replicate the work of the Hackitt Review. Instead, it intends to highlight to the Welsh Government where it should prioritise future action.

We make a number of actions for the longer term as well as some interim action. We would welcome being involved in any future work commissioned as a result of this report.

# The Case for Change

The Hackitt Review presents a compelling case for change.

Some of the solutions to these issues will involve a UK-wide response. Some will require a tailored response based on the unique context in each UK jurisdiction.

Regardless of whether change is UK-wide or applied solely to the Welsh context, change needs to be comprehensive and coherent.

A piecemeal system of improvement will not bring about the holistic change to regulation and culture which is required.

**There is a lack of clarity around key roles and responsibilities**

For example, there is: (a) a notable absence of a clear dutyholder during the building design and construction processes; (b) a very stark handover of responsibility once building work is completed; and (c) a confusing overlap, during occupation, between the Regulatory Reform (Fire Safety) Order 2005 and the Housing Act 2004.

**There is an imbalance between building designers/contractors and regulators**

The need for building control bodies (BCBs) to compete for business can sit uncomfortably with a proper consideration of fire safety design. In addition, there appears to be a significant amount of leeway for building designers/contractors to take action before their plans are fully considered. The lack of a rigorous change control process can lead to a situation where plans do not reflect the 'as built' project.

**There are confusing differences between the two types of building control processes**

The partial privatisation of building control services has led to some processes appearing 'unnecessarily' different and this makes it more challenging to improve building control standards.

**There are competence and capacity issues throughout the system**

There is no clear set of standards or expectations for many of the professionals involved in the design and construction of fire-safe buildings, or the maintenance of fire safety in occupied buildings. In addition, there are capacity issues which can impair the ability of regulators to undertake their work.

**The enforcement/sanctions regime is not strong enough to underpin compliance**

Sanction regimes exist but they are insufficiently robust, infrequently used, and do not effectively drive compliance.

**There are significant limitations in driving improvements to existing buildings**

The non-worsening principle in the Building Regulations 2010, combined with the limitations of the Fire Safety Order, mean there is little in law to require meaningful improvements to the fire safety of existing buildings over the course of their 'life cycle'.

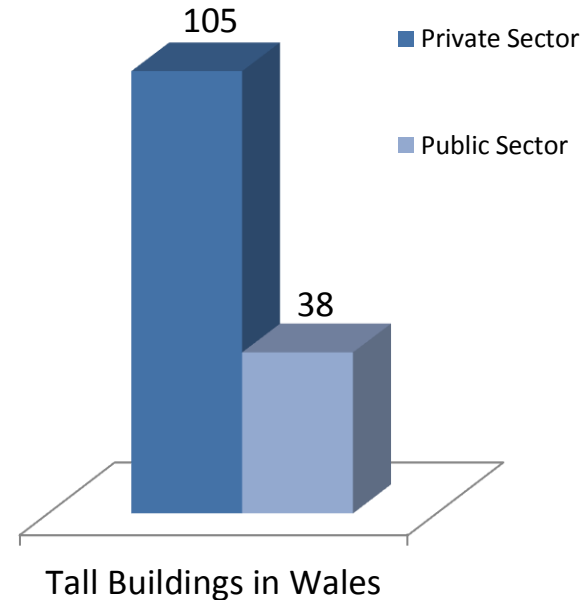
# The Current Building Landscape in Wales

We recognise the work undertaken by Local Authorities and the Fire and Rescue Service (FRS) in the aftermath of the Grenfell Tower disaster to identify high-rise buildings (18m or more in height) with non-compliant ACM cladding.

As at May 2018, 143 high-rise residential buildings (18 m+) were identified in Wales: 38 in the social sector and 105 in the private sector.

This is a dynamic picture and it is important that records held by Local Authorities, FRS, and private Building Control Bodies relating to the locations and particulars of high-rise residential buildings are pooled and kept up to date. This is a key element of the 'golden thread' of information described in the Hackitt Review: regulating agencies require accurate information about high-rise residential buildings in order to help them manage and minimise risks to residents and the safety of the wider public.

Welsh Government needs to ensure as quickly as possible that we move to a position whereby developers and landlords are clear as to their precise obligations in relation to information-capture and retention so that accurate information can be made available to regulators, as and when required. We consider on page 21 requirements for all buildings within scope to develop a 'golden thread' of information to support a new legislative regime.



Accordingly, we recommend that Welsh Government sets a deadline by which landlords and developers are charged with ensuring and certifying that comprehensive building records are in place for all those buildings within the current estate where residents are at greatest risk as a consequence of the potential for fire. We acknowledge that compiling the necessary records will be a resource-intensive process, and the deadline set should reflect this.

# The Current Building Landscape in Wales

## In the interim:

As the precursor to a more expansive database and the development of the 'golden thread', Local Authorities continue to update their records of high-rise buildings, expanding this information to include the particulars of other higher risk buildings, such as hospitals and care homes. Consideration should be given to how this information is shared between regulators.

In shorter time, local teams involving both LA Building Control services, the FRS and relevant third parties (for example, LA housing enforcement teams and HSE) should be convened in all areas with large concentrations of high-rise residential buildings (as well as other higher risk buildings). These teams should meet on a frequent basis in order to establish sustainable mechanisms for the collective oversight of 'in scope' buildings and other aspects of partnership working, including enforcement. This will be a first step towards the more formal and durable relationships that will emerge between regulators in Wales.

## We recommend:

In the longer term Welsh Government should explore with Welsh local government, FRS and private Building Control Bodies how to develop a single register of buildings 'in scope' for this exercise. This should be with a view to enabling all regulatory partners to benefit from the economies of scale that could be generated from the development of a single digital repository to which regulators operating in all areas of Wales would have access.

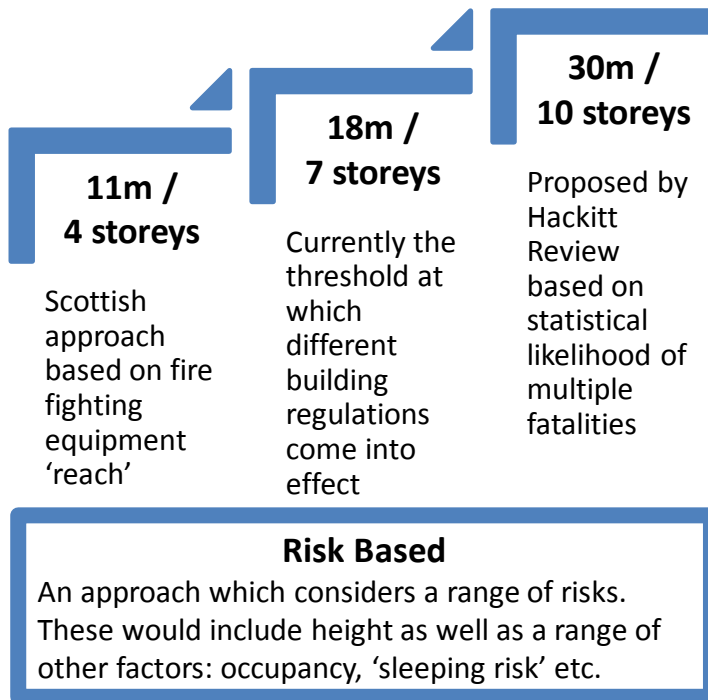
We believe that Welsh Government should set a deadline by which landlords and developers of 'in scope' buildings must be in possession of a full set of building records, to be drawn on by regulators where required.

# Scope - Options for consideration

## Hackitt Review recommends

*“The new regulatory framework should apply to residential properties which are 10 or more storeys high in the first instance.”*

The Group had in-depth discussions about what should be within the ‘scope of considerations’ for Welsh Government. It considered four broad approaches.



In identifying buildings ‘in scope’, Welsh Government needs to be mindful of the nature of the Welsh housing stock and the need to protect residents in the types of buildings that are likely to be built in Wales in future.

At present, Wales has a relatively low (although growing) number of high-rise residential buildings over 30m. This is a very different situation to England (which was the main focus of the Hackitt Review), where there are greater numbers of high-rise blocks over 30m due to greater urbanisation. Furthermore, the height of a building is only one among many variables that define the risk of fire; and our discussion identified important risks arising from focussing only on those buildings which are over 30m high.

We believe that the Welsh Government should adopt a more wide-ranging approach to integrated building safety than that proposed in the Hackitt Review and that a more limited approach focused solely on a 30m height threshold would not meet the needs of residents in Wales.



# Scope - Options for consideration

Option	Advantages	Disadvantages
18m/7 storeys +	<p>Clarity.</p> <p>Ties in with Building Regulations and with existing expectations/ practices within the sector.</p> <p>Would allow for the effective and swift implementation of a new regulatory regime.</p>	<p>We need to ensure that reform is ambitious and promotes adequate culture change within the sector.</p> <p>The 18m used in current building regulations B5, such as where there is a requirement for specific fire fighting facilities (e.g. dry risers) was based on the height reached with “wheeled escape ladders”. These were once in widespread use across the UK, but practical issues concerning the weight, maintenance and limited ability to access buildings beyond obstacles such as alleys and fences means that they have not been in widespread use since the late 1980s.</p>
11m/4 storeys +	<p>Clarity.</p> <p>11m is the height to which the firefighting ladders are able to access in order to carry out rescues externally. This is also the height the fire service is expected to reach from a ground level mounted water jet.</p>	<p>We need to ensure that a new system is proportionate, manageable and takes account of wider objectives such as the need to build a stock of high quality and affordable homes. This brings a significant additional amount of premises into scope as HRRBs.</p>
Risk Based	<p>Captures wider range of buildings other than high-rise blocks.</p> <p>Focuses attention on buildings where the threat to life is greatest. The vulnerability of individual occupants has a huge impact on their risk of death and injury from fire.</p>	<p>Clarity will potentially be lost.</p> <p>We need to ensure that a new system is proportionate and manageable. This brings a significant additional amount of premises into scope as HRRBs.</p>

# Scope - Options for consideration

Adopting a height-based approach has the chief advantage of clarity. 18m+ neatly ties in with the current Building Regulations and the point at which different rules apply. There is also logic in the 11m threshold, which has been adopted by the Scottish Government on the basis of the rescue capability of front-line firefighting appliances.

A sole focus on height, however, may result in the dismissal of other important risk and operational factors (summarised in the diagram). It may be possible for Welsh Government to proceed on the basis of a more comprehensive understanding of fire risk and to expand the definition of 'in scope' buildings beyond height.

Building use

Occupancy type

Internal layout

Fire safety measures

Building management

External Access

## We recommend:

The 30m/ 10 storey threshold limit put forward by the Hackitt Review does not go far enough. Welsh Government should give consideration to a broader scope.

## Options for Consideration:

- 1) Residential buildings of 18m/ 7 storeys or more
- 2) Residential buildings of 11m/ 4 storeys or more
- 3) Buildings that fall within a 'risk matrix', **in addition** to residential buildings above a fixed height (18m/ 7 storeys, or 11m/4 storeys)

The Group notes that the National Fire Chiefs Council (NFCC) is currently developing a risk-matrix. This work is due to report in the Summer 2019. Once the NFCC report is finalised, it will be possible for Welsh Government to conclude whether a risk-based approach is appropriate and, if so, what this would look like.

## In the interim:

Research into the existing building landscape should be undertaken by Welsh Government, including consideration of the impacts of adopting each of the three options outlined. This should draw on the forthcoming NFCC risk-matrix.

# Potential ‘retrospective’ application of reform

In confirming the scope of buildings which will be affected by a stronger regulatory approach we believe that it is essential that the Welsh Government should not restrict these changes to new buildings alone. The Grenfell disaster and the Hackitt Review have highlighted the systemic issues which characterise the regulation of the current stock. We therefore recommend that the Welsh Government should also make changes to the regulatory arrangements which apply to existing buildings which fall within the high risk category we have identified.

We recognise that Welsh Government can not achieve these changes through retrospective application of revised Building Regulations to properties that are part of the existing housing stock. However, Welsh Government does need to consider how it would propose to ensure that all buildings will be progressively brought up to the higher standards we are now recommending over the course of their lifetime as renovations are undertaken. We further recommend that any changes that are introduced to the management of buildings which are occupied can and should apply to all buildings in scope, whenever they were built.

There is a particular need in this regard to consider a more consistent approach to the fitting of sprinklers. Since 2016, under the Building Regulations, all new and converted flats and dwellings (as well as other residential settings such as care homes) in Wales have been required to be fitted with sprinklers. This ground-breaking legislation now seems even more important. There is, however, no obligation to retrofit sprinklers in existing buildings

We were interested to hear of the work taken forward by the Scottish Government with regards to fire alarms and heat detectors.

The new guidance provides for at least one (preferably optical) smoke alarm, installed in the principal habitable room (normally the living room) and in circulation spaces such as hallways and landings, as well as at least one heat detector in the kitchen, with all these alarms interconnected.

## **We recommend:**

Welsh Government should look again at promoting sprinklers in existing ‘in scope’ buildings, building on the need for all new-builds and converted properties to possess them. Welsh Government should continue to promote fire alarms/smoke detectors in individual dwellings.

Welsh Government should review the options and consider the impacts on practicalities (such as, for example, evacuation procedures), developing a way forward to promote sprinklers and fire alarms/ smoke detectors in higher risk residential buildings.

# Construction Phase – principles of reform

The Hackitt Review criticised the regulatory regime in England, which it saw as too complex. The same can be said about Wales, as the requirements are almost identical. Building Regulation powers were devolved to Welsh Ministers on 31 December 2011 (through the Building Act 1984). Therefore, the Welsh Government has the legislative levers available to make the necessary reforms for Wales.

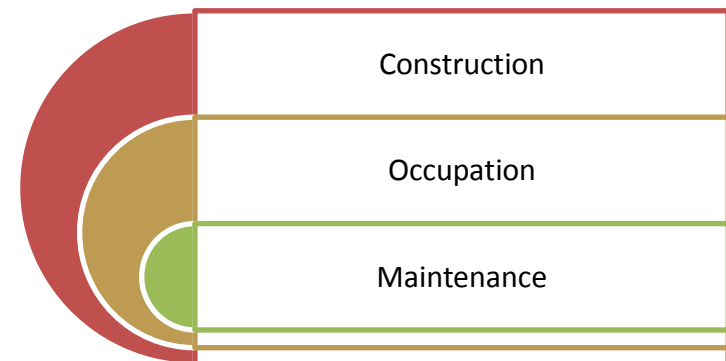
There is a misconception that Building Control Bodies (BCBs) are responsible for ensuring overall compliance. Primary responsibility for ensuring that buildings are fit for purpose rests with those who commission, design and build the project. It is the responsibility of the builder/ developer to ensure that they are constructing buildings that meet the appropriate fire and safety standards.

The main function of Building Control is to ensure that the requirements of the building regulations are met. Generally, they examine plans, specifications and other documents submitted for approval and survey work as it proceeds. Most Building Control surveyors are now actively involved at design stage for many schemes and are acknowledged to provide valuable input at all stages of development. The role of Building Control is not to stand over the shoulder of each tradesperson on site to ensure that they are doing a good job.

We need to ensure that a safety-focussed ethos is fostered amongst all those involved in the design and construction of an ‘in scope’ building. These professionals need to have the competence to fully consider the impact of their actions on the safety of the building across the entirety of its ‘life cycle’.

Inherent to this new system is additional cost. The Hackitt Review was clear that any new system would come at a cost and that this should be recognised. In Wales, there will inevitably be increased costs resulting from the demands of a new system designed to make buildings safer. This should be acknowledged and accepted.

This new system will require changes to legislation and cultures to promote accountability. It will therefore take time to put in place. However, many of the principles of the new system can be implemented ahead of legislation. Implementing changes ahead of the legal process will help inform and develop legal requirements



# Joint Competent Authority

The Hackitt Review recommended that a ‘Joint Competent Authority’ (JCA), comprising Local Authority Building Control services, the FRS, and the Health and Safety Executive (HSE), should be the regulator for high-rise residential buildings across all stages of the building ‘life cycle’.

We agree with the Hackitt Review regarding the need to develop more robust protocols for regulation at all stages in the design, planning, construction, and ongoing occupation of higher risk buildings. Effective joint-working between regulators must apply at all stages of the building lifecycle, including in the occupation phase.

As a first step in specifying how this will work, there is a need to undertake a mapping exercise to determine the current roles of BCBs, the FRS and HSE, including the underpinning legislative framework and charging models, and whether these are adequate to the needs of a new system.

We recognise, in particular, a need to improve interactions between regulators during the planning and construction phase. We have mapped out a prototype building control process that would realise this principle more effectively than is often the case at present. In addition, we propose that the FRS be made a statutory consultee at the planning and full plans sign-off stages for ‘in scope’ buildings. This aligns with the Hackitt Review’s suggestion for JCA sign-off at key ‘gateway points’.

HSE is a non-devolved body with responsibility for the reserved matter of regulating workplace health and safety. We have concluded, however, that the advice of HSE will be instrumental in building the new system in Wales. We consider that HSE has much valuable insight to bring to bear in terms of embedding the ‘Safety Case’ approach, dutyholder roles and responsibilities, and culture change more widely. Welsh Government should work closely with HSE to determine how this expertise can be accessed by Welsh BCBs and the FRS and consider how the three bodies can work jointly together, both on a day-to-day and on a more strategic basis.

Ahead of legislation coming into force, there are interim changes that can be promoted to give practical effect to the principle of effective joint-working between BCBs and the FRS during the building control process.

As a first step, the FRS should be more involved in the building control approval process of residential buildings above 18m in height as a minimum (but potentially extending to other buildings). This is in advance of a conclusive definition of buildings ‘in scope’ being reached. In effect, this will allow the prototype model to be trialled and refined.

Welsh Government should also consider the promotion of the *Building Regulations and Fire Safety Procedural Guidance* developed by the LABC professional body to designers, developers and others involved in the construction phase.

# Joint Competent Authority

## In the interim:

Welsh Government should undertake a mapping exercise to determine the current roles of BCBs, the FRS and HSE, including charging models and the underpinning legislative framework, and whether these are adequate to the needs of a new system.

Ahead of legislation coming into force, FRS role in the building control approval process for high-rise residential buildings (18m +) should be enhanced. This should apply, as a minimum, to high-rise residential buildings in excess of 18m in height.

Welsh Government should work closely with HSE to determine how its expertise can be accessed by BCBs and the FRS and consider how the three bodies can work jointly together, both on a day-to-day and on a more strategic basis

## We recommend:

In legislating for changes to both the planning and building control process, the FRS should be made a statutory consultee in the planning approval process for buildings 'in scope'.

# A proposed new system for Wales

We believe that Welsh Government needs to bring in changes to the Building Control process so that there is greater rigour during the building and redevelopment of 'in scope' buildings. This includes more robust enforcement of the Building Regulations and the reconciling of any inconsistencies between the rules and processes applied by Local Authority Building Control services and Approved Inspectors.

We have developed a basic prototype of a new process that would embed building safety into the design, construction and occupation of buildings – the entirety of the building 'life cycle'. See annex for details.

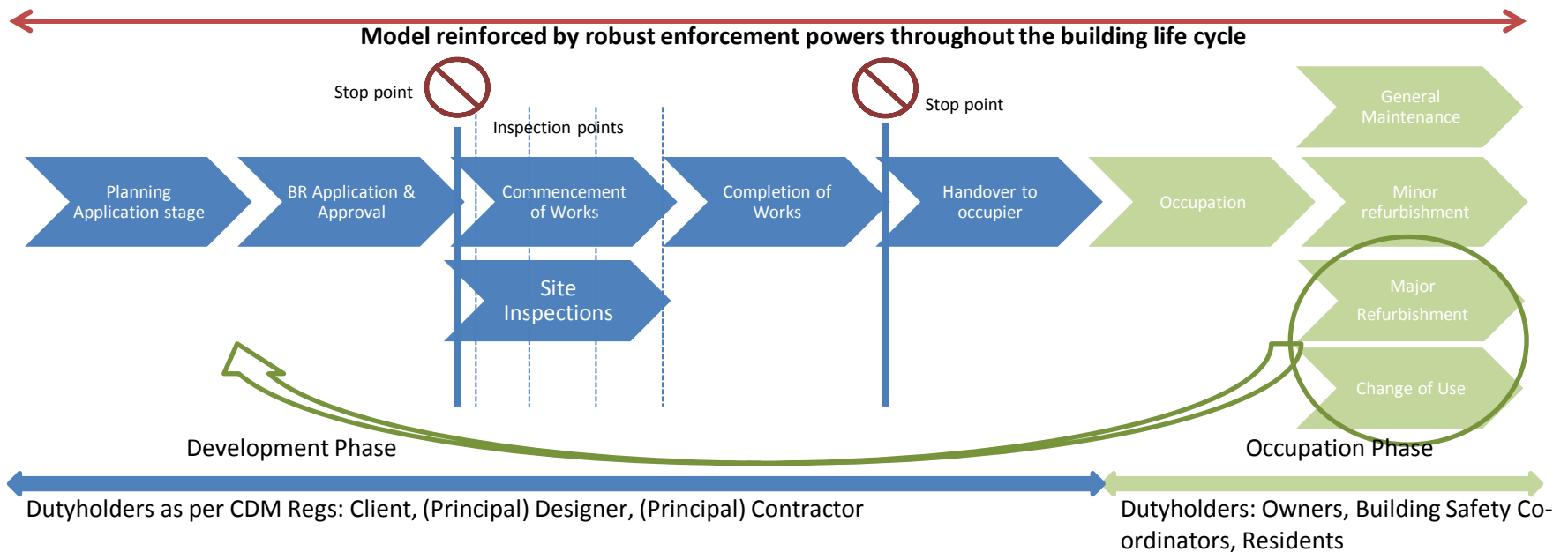
The prototype we have devised makes provision for the development of the Fire Safety Case model and the appointment of named 'dutyholders' with defined roles and responsibilities based on the Construction (Design and Management) Regulations 2015. It also responds to the need to capture the full range of relevant information to ensure ongoing fire safety as part of the 'golden thread' proposed by the Hackitt Review.

We acknowledge that much guidance and detail needs to be developed to support the new arrangements.

## We recommend:

That the 'prototype' model forms the basis of any new system in the future.

Welsh Government should take forward work to develop this proposal, putting in place an appropriate level of detail, prior to consultation.



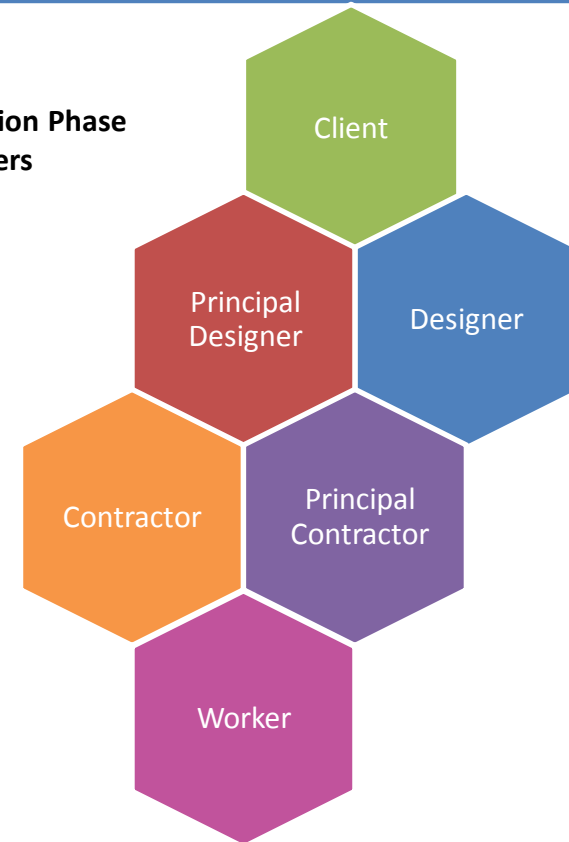
# Dutyholders (construction phase)

The Construction (Design and Management) Regulations 2015 set out roles and responsibilities for dutyholders. Changes to the Building Regulations should also include similar information in relation to the roles and responsibilities of the following:

- Commercial clients – Organisations or individuals for whom a construction project is carried out.
- Designers - Organisations or individuals who as part of a business, prepare or modify designs for a building, product or system relating to construction work.
- Principal designers - Designers appointed by the client in projects involving more than one designer. They can be an organisation or an individual with sufficient knowledge, experience and ability to carry out the role.
- Principal contractors – Contractors appointed by the client to coordinate the construction phase of a project where it involves more than one contractor.
- Contractors – Those who carry out the actual construction work. This can be an individual or a company.
- Workers– Those working for or under the control of contractors on a construction site.

We set out proposed dutyholders for the occupation phase on page 19.

## Construction Phase Dutyholders



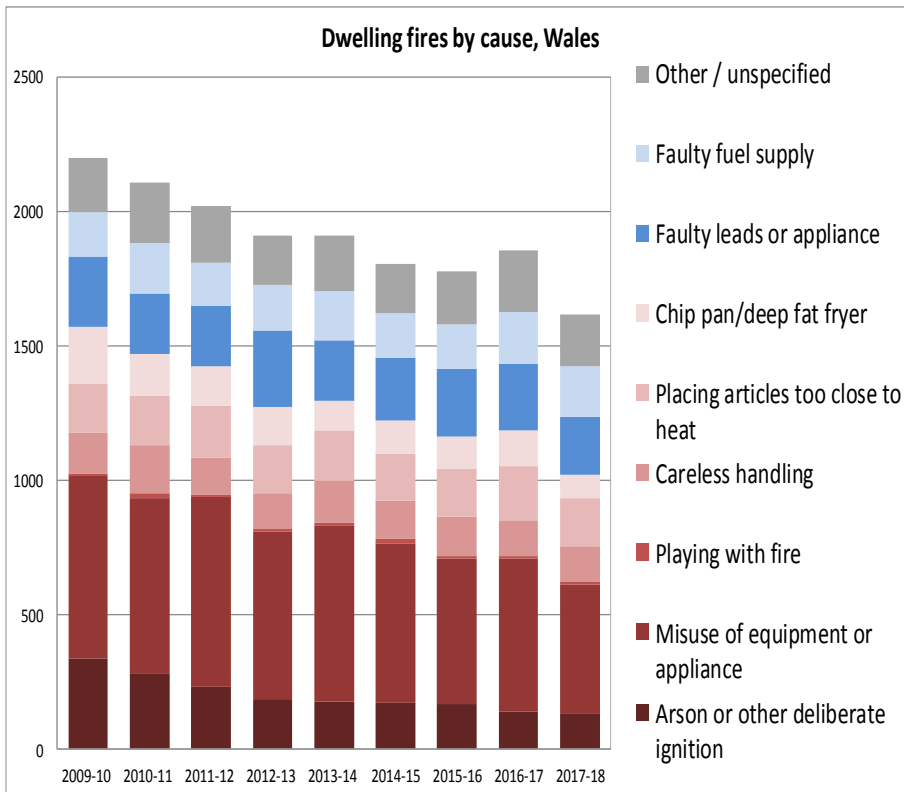
### We recommend:

The roles and responsibilities set out in the Construction (Design and Management) Regulations 2015 should form the basis of roles and responsibilities for 'dutyholders' prior to building occupation – i.e., planning, design and construction phases.



# Occupation Phase

Successful maintenance of fire safety in the occupation phase is shared between residents and landlords/ freeholders. The vast majority of fires have their cause in unsafe behaviours (see graph). Measures aimed at preventing fire (such as promoting fire safety awareness and seeking to change behaviours) are therefore of great importance.



The Regulatory Reform (Fire Safety) Order 2005 ('FSO') is the main piece of law about fire safety in Wales and England. It applies to all premises except private dwellings. This means it covers the common areas of blocks of flats etc. but not the flats themselves or their outside walls. It does so on largely the same terms for all premises, meaning there are no more stringent requirements in the FSO for higher-risk premises.

In practice, much depends on the 'responsible person' for each building, who is charged with conducting a fire risk assessment and taking appropriate corrective measures. Inspection falls to the FRS, which has a range of enforcement powers if there is non-compliance.

Most premises covered by the FSO are non-residential, and many of them – like shops and offices – have a very low risk of fire. Accordingly, they are only inspected rarely. We have heard that the FRS lack the resource to inspect more than a small proportion of buildings covered by the FSO (around 4% in 2016-17). These inspections are carried out on a risk basis but this unfortunately leaves ample scope for non-compliance in those buildings which are not inspected.

# Occupation Phase

There are several basic problems with the FSO, which are reflected in the Hackitt Review. These include:

- The FSO was designed largely for workplaces, with extra duties on 'responsible persons' who are employers.
- In residential buildings, such as blocks of flats, it applies only to the common areas and does not clearly address responsibility for the boundaries between flats and common areas (including flat front doors). This is despite the fact that almost all of the potential causes of fire in such blocks are within individual dwellings, not in the common areas.
- The identity of the responsible person is often not clear, for instance in mixed-use buildings (where there are multiple such persons), and/or where buildings are owned by corporations or investors based outside the UK.
- Because the FSO applies on more or less the same terms to everything from a barn to a steelworks to a tower block, its provisions are necessarily very broad. The detail of how it works in practice depends too much on the judgement of the 'responsible person' and the fire risk assessment.
- The FSO does not set out who can conduct risk assessments or the frequency with which they should be conducted.
- It is not always clear how the powers of the FRS under the FSO cohere with the inspection and enforcement powers of Local Authorities under the Housing Act 2004.

The current regulatory landscape within the occupation phase of the building 'life cycle' is fragmented and, at times, ineffective. This means that there is often confusion as to the roles and responsibilities of building owners, but critically, there is limited information for, or requirements placed on, those who reside in buildings. In both legislative and practical terms, it will be important to strike an effective and appropriate balance in this regard.

The Hackitt Review proposes that a dutyholder is identified for the building when in occupation. It is proposed that the dutyholder must also nominate a competent building safety coordinator to be responsible for the day-to-day management of the building, and to act as a point of contact for residents (where the dutyholder is unable to do so). We agree that relevant dutyholders should be clearly identified at all stages of the building life cycle.

The dutyholder would have an overarching responsibility to take such safety precautions as may reasonably be required to ensure building safety risk is reduced so far as is reasonably practicable.

## **We recommend:**

Welsh Government should bring forward legislation to replace the FSO in order to provide clarity and resolve the basic problems identified. This should include setting out in legislation dutyholders and their roles and responsibilities during the occupation and maintenance/ renovation of buildings 'in scope'.

# Occupation Phase

The building safety case should be a live document that informs decision making during construction, maintenance and occupation.

Whilst new requirements will be put on the development of new buildings within scope, there should be an expectation that the existing stock of buildings that fall within scope should also develop a building safety case. Such information should then help inform owners/ building safety manager of action that needs to be taken. The level of detail required may be different for different 'sorts' of buildings within scope. Welsh Government should give consideration to categorising buildings within scope to ensure proportionate responses.

As highlighted previously there are issues with the effectiveness of Fire Risk Assessments under the current regime. We believe that all buildings within scope should regularly undertake fire risk assessments using an appropriately qualified individual. Such assessments should then be used to inform onward maintenance and renovation programmes. As a first step to making this happen, Welsh Government will need to review the resource available within the existing system and whether there are any capacity gaps that will need to be addressed.

The relevant dutyholder should have responsibilities to ensure that assessments are undertaken and acted upon. As such, it may be appropriate to define some elements of the fire risk assessment that lead to a mandatory action and introduce requirements for these to be checked. Residents should also be kept informed about relevant issues and planned remedial action.

## We recommend:

Welsh Government should give consideration to the Occupation Phase of the building lifecycle. It should seek to bring clarity in terms of roles and responsibilities during the occupation phase. This work should include:

- roles and responsibilities for owners
- roles and responsibilities for building safety coordinators

Welsh Government should bring forward legislation with regard to requiring annual Fire Risk Assessments to be undertaken by a suitably qualified individual, having identified any steps needed to address any capacity gaps in the system. This should be mandated for all 'in scope' buildings.

Welsh Government should require that all buildings within scope should develop a building safety case within a reasonable period of time.



# Occupation Phase

There must be a clear set of expectations on building owners and managers to provide information on building safety to residents, but this must be a two-way street. Clearer obligations should also be placed on residents to cooperate with the dutyholder and to ensure that they take any action required within their own flats - for example, to ensure that fire compartmentation is maintained to a suitable standard.

Moving forward, it would be helpful to establish roles and responsibilities for all residents of buildings 'in scope'. These should apply regardless of the type of tenure and set out to residents a reasonable set of minimum expectations with regard to behaviours and their role in maintaining the overall fire safety of the building.

We realise that such steps will need to be backed up by inclusive and effective resident engagement strategies on the part of landlords and managing agents. This will enable residents to actively involve themselves in fire safety matters and to make their voices heard. There is much good practice to learn from. In particular, the strong examples of resident engagement that are widespread in the Welsh social housing sector should be promoted to the private sector – where effective resident engagement is less common.

Where there are issues of residents' voices being heard, as was the case in Grenfell, we should give consideration to other means of escalating concerns. The Ministry for Housing, Communities and

Local Government have recently consulted on [Strengthening Consumer Redress in the Housing Market](#). Consideration of action under the Occupation Phase should also give consideration to this issue.

## We recommend:

Welsh Government should work with both the social housing and private sector to identify best practice in resident engagement. These models of good practice should be promoted across sectors.

Welsh Government should undertake targeted work with residents (in the private and public sector) to ascertain their requirements and expectations in relation to resident engagement and to hear their experiences first-hand. These should be incorporated into a set of standards for effective resident engagement.

Welsh Government should seek to bring clarity in terms of roles and responsibilities for residents during the occupation phase. This work should include:

- information provision to residents in relation to fire safety and building safety more generally
- roles and responsibilities/expectations on residents

Welsh Government should consider how the provisions of the Renting Homes (Wales) Act can be used to advance these objectives, including how resident roles and responsibilities are promoted and steps that should be taken when these expectations are not satisfied.

# Safety Case Approach and the Golden Thread

Many of the recommendations of the Hackitt Review focus on information capturing and sharing.

The Hackitt Review proposes that a Golden Thread of key information is developed. The creation, maintenance and handover of key information, would be required of dutyholders. This would include a digital record, a 'fire and emergency' file, full plans, and a construction control plan. The building owner would also have to complete a pre-occupation 'fire risk assessment' and a resident engagement strategy before the building could be occupied. This information is proposed to form the basis of a 'safety case' for the building (although the 'safety case' is much more than a bundle of information; it is an approach or 'philosophy' which underpins the management of safety in a higher risk building). The Hackitt Review proposes that the safety case is reviewed at least every five years, and more often if modifications are proposed to the building.

The Hackitt Review envisages retrospectively creating safety cases for existing buildings, which would require an information-gathering exercise to build the data record and reconstruct the design intent for building safety. The Hackitt Review recognises that this will be a significant task, and proposed a phased programme of work on a prioritised basis.

We agree that the 'Golden Thread' of information is critical at all stages of the building 'life cycle'.

The roles and responsibilities in relation to recording and storing this information during the planning and construction phase, as well as retaining and maintaining the data post-occupation, will need to be outlined. There will also be minimum requirements in relation to the nature of the data collected and how it is held. All of this should be set out in legislation.

This information will also have a number of uses, for example the owner or building safety coordinator will have one use for it, regulators another use, and residents another. Consideration will have to be given to the ownership of information and who and how others may access it.



# Safety Case Approach and the Golden Thread

Welsh Government should also consider which categories of information within this data-bank should be shared as a matter of routine with the regulatory bodies (including audit requirements) to allow them to appropriately plan how they will support the safe upkeep of these dwellings.

The information provided to residents with regards to building safety is also important to help residents make informed decisions and feel safe in their homes. These considerations should be factored into further work on resident engagement.

There are also practical considerations in relation to the capabilities of the digital platform that will be required, such as cost and procurement options.

Buildings within scope will be of varying levels of complexity. The building safety case will need to reflect a gradation of different requirements. In any case, the development and maintenance of a safety case is likely to require significant resourcing on the part of dutyholders.

Welsh Government will need to keep abreast of developments in other UK jurisdictions. For example, the UK Government is working with stakeholders, including digital experts, to scope options in respect of bringing the 'Golden Thread' into being. As such, solutions are likely to be refined through partnership-working and intelligence-sharing between Welsh Government and other UK jurisdictions.

## We recommend:

We agree that a 'safety case' approach should inform the ongoing management of building safety across the entire building lifecycle. We also agree that the development of a Golden Thread of information is required to underpin the identification, regulation and management of 'in scope' buildings.

The Welsh Government will need to consider how to give practical effect to the Golden Thread. This should include:

- minimum information requirements, including consideration for different levels or categories of building
- 'ownership' of, and access to, information (roles and responsibilities)
- minimum information to be shared with regulatory bodies
- minimum information to be provided to residents.

## In the interim:

Welsh Government should work with building developers now to find out what information is currently collected and how it is used. Ahead of any legislation or more formal guidance, best practice should be identified and promoted.

# Capability and Capacity

The Hackitt Review identified that there is a lack of a coherent and comprehensive approach to professional competence within the sector. We recognise that the issues identified by the Hackitt Review apply in Wales and are consistent across the UK.

A detailed, cross-sector programme of work in relation to existing professional competence levels, and how these can be improved, is currently being undertaken by the UK Government's Competence Steering Group (CSG) - an industry-led forum. We support this approach and consider that improving competence levels within the building industry is best led by the sector itself.

The CSG will develop coherent proposals, to include the role and remit of an overarching body to provide oversight and competence requirements. The CSG is also overseeing the work of 11 industry response groups, who are engaged in identifying and developing specific competency frameworks and accreditation pathways for particular professions. We consider that the recommendations identified by the CSG should, in due course, form the basis of a Welsh approach to strengthening professional competence.

Whilst primary responsibility for addressing competence should lie with industry, Welsh Government should seek to support and promote this work in Wales. Where appropriate, this should include development of apprenticeships (and graduate training programmes) and promotion of relevant qualifications, if necessary at undergraduate or postgraduate level.

Welsh Government should give consideration to CPD requirements. It would be appropriate for Welsh Government to work with industry experts, local education establishments and training providers to develop and deliver these.

All of these steps will go some way to addressing Client concerns that what is designed is not always what gets built. The way in which Clients commission and procure projects will also contribute towards the far-reaching culture change that is required to improve outcomes in the sector.

There is, however, a need to ensure that Clients are equipped to identify and demand competence in the contractors they employ to conduct work on buildings. (There is also an issue regarding the work of utilities/telecoms companies which, if left unchecked, can breach building compartmentation.) We believe that Welsh Government should work with those commissioning projects to ensure there is the necessary level of awareness, developing guidance and sharing best practice in support of this.

## **We recommend:**

Welsh Government keep a watchful eye on the work of the Competence Steering Group and give consideration to how their proposals might apply in Wales. This should include supporting the delivery of apprenticeships and CPD.

Welsh Government should work closely with Clients to improve their ability to identify competent contractors, developing guidance and sharing best practice in support of this.

# Capability and Capacity (public sector)

Capability and capacity are, however, real issues in the here and now. Our discussions have highlighted the existing pressures within Local Authority Building Control services and the FRS to deliver against existing requirements. Professionals with relevant experience and training are thinly spread across the system.

Within existing resources, Local Authority Building Control and Housing services and the FRS may experience difficulties in responding to an enhanced oversight and enforcement requirements of a future system. Local Authorities and the FRS will need to give consideration to how they will work together to share expertise and experience for example at a national and regional level.

Welsh Government should therefore engage with LAs and the FRS to assess existing staffing and competence levels, as well as arrangements in place for training and development and succession planning. This is to ensure that public sector bodies have the capacity to engage in effective joint-working during the planning, construction and refurbishment of high-rise and other complex buildings.

Where necessary, Welsh Government should also work closely with other public sector bodies (including where non-devolved) and the private sector (such as Approved Inspectors) to ensure a necessary level of capacity and regulatory competence.

## We recommend:

Welsh Government should engage with LAs and FRS to assess existing staffing and competence levels. This should identify where the gaps are in relation to the needs of the future system, including the requirement for joint-working during the planning, construction and refurbishment of 'in scope' buildings.

The FRS should look to identify gaps to better support the 'occupation phase' and how best to regulate in a system where there is greater expectations with regard to fire risk assessments.

Welsh Government, WLGA, LAs, and FRS should work together to ensure that staffing levels and qualifications are adequate to meet the needs of the future system, initially focusing on capability and capacity within the public sector. This should involve consideration of resource levels, 'talent pipelines' and succession planning.

Welsh Government, LAs, FRS and WLGA should consider what formal regional and national arrangements are needed to share knowledge and expertise to support the new system.



# Conflict of interest

The Hackitt Review highlights that whilst the introduction of Approved Inspectors has meant that customer service standards have risen, the part-privatisation of the regulatory function has created unintended consequences. There is a trade-off between building control bodies competing with one another for business, while still ensuring rigorous certification with all the requirements of Building Regulations.

The decision as to which approved BCB route to use is sometimes made on a lowest-cost basis and is part of the 'race to the bottom' identified by Hackitt.

That said, Local Authority Building Control teams have acknowledged that, at times, they are deterred from taking the enforcement actions available to them given that costs cannot be recovered and due to potential loss of business. There are also issues of perceived conflicts of interest where the Local Authority Building Control service is the BCB for a Local Authority project.

There is also a perception that the playing field is far from level. Approved Inspectors need formal qualifications and approval to practise and yet lack the enforcement powers of their local authority counterparts.

In proposing a JCA, the Hackitt Review effectively recommended excluding private Approved Inspectors from providing their services on High-Rise Residential Buildings. However, Approved Inspectors would still have a role in providing accredited consultancy and verification services to help dutyholders meet new responsibilities.

Whilst the group makes no recommendations with regards to the role of Approved Inspectors, Welsh Government should give consideration as to how best to meet capacity gaps within Building Control.

## **We recommend:**

Welsh Government should consider how to ensure there is sufficient capacity in the Building Control sector to deliver against a new system. This should include a consideration of the role of Approved Inspectors, and careful consideration to the findings of the industry group in relation to Building Control/Building Standards.

# General Principles of Enforcement

There are provisions for enforcement action across the whole of the building lifecycle and a multitude of legal requirements that developers, building owners and landlords must comply with. For Registered Social Landlords this includes compliance with Construction Design Management Regulations (CDM) 2015, Housing Act 2004, Landlord and Tenant Act 1985, Regulatory Reform (Fire Safety) Order 2005, Building Act 1984 & Building Regulations 2010 and the Renting Homes (Wales) Act 2016. This is alongside legislation relating to Gas Safety, Health and Safety Legislation, Lift Safety, Electrical legislation, and Energy Performance.

There are a range of enforcement methods currently available to regulators, such as those granted by the Housing Act 2004 and the Housing Health and Safety Rating System (HHSRS). The HHSRS grants Local Housing Authorities extensive powers to mandate improvements to dwellings on the basis of a risk assessment covering up to 29 categories of potential hazard. It is clear, though, that there are issues which sometimes deter Local Authorities from making full use of the powers available to them – including capacity. The relationship between the Housing Act 2004 and the Fire Safety Order is, moreover, unclear in places and there is a need for greater clarity in terms of the respective powers of Local Authorities and the FRS, as well as better ‘link-up’ on a day-to-day basis. Welsh Government should consider the development of a formal protocol setting this out.

We concur with the findings of the Hackitt Review in that the current suite of enforcement measures needs to be “reinforced so that penalties are an effective deterrent against noncompliance”. The UK Government has set up a Joint Regulators Group, comprising representatives of the Health and Safety Executive, Local Authority Building Control, Fire and Rescue Services and the Local Government Association, which will start to test elements of the revised framework in 2019 ahead of any new proposed legislation.

Welsh Government should keep abreast of these developments and give consideration to their applicability in Wales in due course.



# General Principles of Enforcement

The prototype building control process set out by this group addresses a number of suggestions made by the Hackitt Review, which recommends that BCBs and the FRS have the power to mandate improvements, or to stop construction altogether, where there are significant concerns.

Welsh Government will, however, need to give consideration to additional steps that could be taken to bolster regulators' enforcement capacity. As we have stated, there is a clear link to the work on improving competence and capacity within the sector. Consideration needs to be given to existing enforcement levers available to BCBs, and how they interact with other powers of other regulatory bodies. Concerns have been raised that ineffective enforcement guidance can discourage enforcement action, and such issues will need to be addressed.

Enforcement goes beyond the construction phase. The Grenfell tragedy highlighted the need for clear routes for residents to escalate concerns with regards to building safety if they are not being appropriately addressed. Social housing tenants in Wales are able to make use of a suite of potential redress mechanisms, but residents in the private sector are less well provided for. The UK Government recently consulted on [Strengthening Consumer Redress in the Housing Market](#), which picked up a number of related issues. Welsh Government should work with the Ministry for Housing, Communities and Local Government to explore read across between England and Wales.

## **We recommend:**

Welsh Government should work with regulatory bodies (FRS and BCBs) and others to consider the role of enforcement and compliance in Wales. It should make links to the group established in England so as to not replicate work. This work should give consideration to any interim measures that could be put in place using existing powers, as well as longer term consideration of an appropriate system of enforcement.

A mapping exercise should be undertaken to clearly identify all enforcement levers currently available to regulators and how they are currently used and if there are any barriers to their use. Findings from the mapping exercise should be shared amongst regulators so that awareness is raised regarding the various enforcement options available. Welsh Government should consider a formal protocol setting out how the day-to-day link up of the Fire Safety Order and Housing Act 2004 should work, if the need for this is borne out by the mapping exercise.

An appropriate route for redress by residents when internal complaints procedures have been exhausted should also be considered, linking in to the work of the Ministry for Housing Communities and Local Government.

# Working in Partnership

Building safety knows no geographic boundaries, and many of the principles and processes for ensuring it need not and should not diverge between jurisdictions. There will be, therefore, much learning that can be pooled across the UK. However, the guiding ethos of Welsh Government must always be to keep the needs of residents in Wales at the heart of what it does. This means that Welsh Government should be prepared to take a different approach when necessary: where housing or other socio-economic conditions in Wales are different, where there will be a beneficial impact to residents in Wales, or where a different course of action would be better suited to the Welsh context. Guided by this ethos, there are areas in which we do not believe there is a substantial role (at least at present) for Welsh Government:

- **Professional competence**
- **Product standards and testing**
- **Procurement**

## Professional competence

A detailed programme of work focused on improving professional competence levels across the sector is being undertaken by the UK Government's Competence Steering Group (CSG), an industry-led forum. We recognise that the picture in Wales is similar to that in the rest of the UK and that there are widespread issues along the lines that the Hackitt Review identifies. We therefore consider that industry is best placed to lead on this area through the CSG. The recommendations identified by the CSG should form the basis of a Welsh approach to strengthening professional competence. However, Welsh Government will need to engage with industry and UK Government to ensure that the interests of the sector in Wales are fully understood and that there are appropriate arrangements in place to ensure that the delivery of reforms in Wales is coherent and effective.

# Working in Partnership

## Product standards and testing

We consider that a UK-wide approach to product standards, certification and testing is required to maintain consistency. However, there is a potential role for the Welsh Government in relation to testing capacity, which is a significant issue for industry at present. The Welsh Government should therefore consider means of addressing this issue in Wales: for example, through the establishment of a testing facility in Wales.

## Procurement

We recognise the foundational role played by procurement methodologies in terms of shaping the way that buildings are constructed. ‘Design and build’ contracts, as well as contracts that are awarded solely on the basis of lowest price can result in cost reductions affecting the quality of products and labour used, as well as impacting on the safety of buildings. As the Hackitt Review states: “The aim of the procurement process should be to obtain best value, rather than lowest cost.” Dame Judith also recommends that contracts should be designed in order to stipulate and promote clear ‘dutyholder’ roles and responsibilities. We agree with Dame Judith’s diagnosis and consider that the problems and solutions in relation to procurement are consistent across the UK. As a result, we recommend that the Welsh Government should review the UK Government’s forthcoming proposals on this issue – which will encompass revised standards and examples of best practice – and disseminate to Welsh stakeholders and work with them to adopt best practice.

# Annex – Prototype system (development phase) (1)

The ‘dutyholder’ roles that underpin the prototype will be based, as per the ‘Hackitt’ recommendations, on the Construction (Design and Management) Regulations 2015.

Welsh Government will need to ensure that roles and responsibilities stemming in the below commentary are defined and allocated to the relevant dutyholder(s) from the list.

Planning Application stage	Building Regulation Application stage
<p>BCBs develop a procedure for a relevant dutyholder to notify them when a planning application for an ‘in scope’ building is due to be submitted. The dutyholder is required to provide information as a result. This should outline the proposed use, height, and other relevant particulars of the proposed development.</p> <p>It would be good practice – where it would add value in the initial stages of planning and development – for engagement to take place between the relevant dutyholder(s), the BCB and FRS to discuss an outline Fire Safety Case for the building. (This would have to be on a voluntary basis as it relies on the early disclosure to the BCB that an ‘in scope’ building is due to proceed and to accommodate the somewhat fluid nature of the planning and design stage.)</p> <p>Planning application is applied for. As at present, the project may proceed if planning permission is granted and CANNOT proceed if it is refused.</p>	<p>An application for ‘Full Plans’ type of Building Regulation approval is developed by the relevant dutyholder. This should include an indication of access, layout, and scale.</p> <p>The application should identify the named dutyholders associated with the build.</p> <p>The application must contain a document detailing the Fire Safety Case (specific requirements to be defined). Consideration should be given to the provision of feedback and the communication of mandatory actions by the BCB and FRS – for example, through a mandatory meeting.</p>

# Annex – Prototype system (development phase) (2)

Application Assessment and Approval	Commencement of Works and Site Inspections
<p>The relevant dutyholder provides a full set of information requirements (to be defined) to the BCB and the FRS, as part of the full plans type of Building Regulations submission.</p> <p>The Fire Safety Case element of the application will need to be jointly signed off by the BCB and FRS (precise information requirements to be defined).</p> <p>As part of the approval process, a series of site inspections will be agreed at key points in the development. There will be robust requirements for seeking, receiving and acting on Building Control and FRS advice. There will be statutory time limits for receiving approval or approval being denied.</p> <p>This in effect puts a break point in the system. A development CANNOT proceed until the ‘full plans’ (including Fire Safety Case documentation) have received joint approval from the BCB and the FRS.</p>	<p>Work can commence once approval has been granted.</p> <p>At agreed key points in the development the relevant dutyholder will notify the BCB a key milestone (as previously agreed) has been reached. This will trigger an on site inspection. Site inspections will be performed predominantly by the BCB.</p> <p>There should be consideration of whether inspections lead to a ‘pause’ in construction and the steps that the BCB and FRS should be able to take in order to issue a binding ‘stop’ notice in case of necessary remediation work or other outstanding issues.</p> <p>Minimum data capture requirements will be set out in guidance, as well as the categories of information to be made available to the BCB and FRS on request. This may include products used (specifications, locations within buildings), contractors employed (including details assuring professional competence), and site evidence (photographs etc.).</p>

# Annex – Prototype system (development phase) (3)

## Completion of Works

Once notification of completion of works is submitted (this will include completion of part of a building e.g. occupation of a flat complex), the BCB and FRS will conduct a final site inspection and will check 'as built' plans to ensure that the Fire Safety Case (as approved) has been incorporated.

Information relating to the 'as built' building must be provided by the relevant dutyholder for review and final approval for handover to occupation stage. This will include:

- 'As built' plans
- Specifications and user-manuals for key fire safety installations, inc. relevant certification and maintenance instructions
- Fire safety case documentation, as agreed and modified following consultation with BCB and FRS, which must reflect the 'as built' plan

This information will be held in a central database by the Local Authority. The Local Authority will develop processes to ensure that this information is kept up to date.

Occupation (including phased occupation) CANNOT commence until the project has been formally signed off by Building Control and the FRS.

The Construction (Design and Management) Regulations 2015 set out roles and responsibilities for dutyholders. Changes to the Building Regulations should also include similar information in relation to the roles and responsibilities of the following:

- Commercial clients – Organisations or individuals for whom a construction project is carried out.
- Designers - Organisations or individuals who as part of a business, prepare or modify designs for a building, product or system relating to construction work.
- Principal designers - Designers appointed by the client in projects involving more than one designer. They can be an organisation or an individual with sufficient knowledge, experience and ability to carry out the role.
- Principal contractors – Contractors appointed by the client to coordinate the construction phase of a project where it involves more than one contractor.
- Contractors – Those who carry out the actual construction work. This can be an individual or a company.
- Workers– Those working for or under the control of contractors on a construction site.

*Dutyholders during the occupation phase are set out on page 35.*



# Annex – Prototype system (occupation phase) (1)

Handover to Occupation Dutyholder	Occupation (General)
<p>On completion the relevant construction-phase dutyholder must hand over a full set of information on the building to the relevant occupation-phase dutyholder.</p> <p>Occupation dutyholders should be named and notified to the BCB and the FRS, as should any changes.</p> <p>A record should be maintained (by the Local Authority/FRS) of occupation dutyholders of buildings within scope.</p>	<p>The relevant dutyholder must provide occupants with relevant information including:</p> <ul style="list-style-type: none"><li>• Fire evacuation plans (including how to access a PEEP)</li><li>• Information on how to access fire safety advice</li><li>• Guidance for residents regarding how to maintain building safety (e.g., guidance on adaptations to individual flats and on how to maintain compartmentation)</li><li>• Contact details and procedures for engaging with dutyholder(s)</li><li>• How to report and escalate concerns with regards to building maintenance (including fire safety)</li><li>• Proposed maintenance and refurbishment plans</li></ul> <p>This should be kept up to date and provided whenever there is a new occupant to a building and on an annual basis, or following any major refurbishment or changes as a result of a fire risk assessment.</p> <p>Occupants must be provided with opportunities to participate in fire evacuation procedures and should be able to access information on fire safety checks and fire risk assessments.</p> <p>Occupants also have a role to play during their residence. Occupants should be regularly invited to notify the relevant dutyholder of any change in circumstances which may impact on evacuation policy.</p>

# Annex – Prototype system (occupation phase) (2)

Major Refurbishments	Change of Use
<p>The relevant dutyholder must submit proposals to the BCB and the FRS for comment if changes affect the layout and structural integrity of the property.</p> <p>Major refurbishment works must not commence until the comments of the BCB and the FRS have been taken into account and joint approval is given.</p> <p>There will be statutory time limits for receiving approval or approval being denied.</p> <p>This in effect puts a break point in the system. A redevelopment CANNOT proceed until it has received approval from the BCB and the FRS. As part of the process, the BCB will agree a site inspection plan.</p> <p>All changes should be recorded along with relevant installation and safety information and certification.</p> <p>Once notification of completion of works is submitted to the BCB and FRS, a final site inspection will be undertaken.</p> <p>Information (as built) should be provided for review by the BCB and FRS for final approval for handover to occupation dutyholder. (Arrangements will need to be considered for any phased occupation and handover.)</p>	<p>If changing the use of a building into one which is deemed to be of higher risk then the Client will need to submit information to the BCB and the FRS. The information should be sufficient to allow for a decision as to the appropriateness for change of use to be made.</p> <p>Works must not commence until the comments of the BCB and the FRS have been taken into account and joint approval is given.</p> <p>As part of the approval process a series of site inspections will be agreed at key points in the redevelopment.</p> <p>There will be statutory time limits for receiving approval or approval being denied.</p> <p>This in effect puts a break point in the system. A redevelopment CANNOT proceed until it has received approval from the BCB and the FRS. Once notification of completion of works is submitted to the BCB and FRS, a final site inspection will be undertaken.</p> <p>Information (as built) should be provided for review and final approval for handover to occupation dutyholder. (Arrangements will need to be considered for any phased occupation and handover).</p>

# Annex – Prototype system (occupation phase) (3)

## Minor Refurbishments/ General Maintenance

The relevant dutyholder should put in place a programme of routine inspection and maintenance relating to structure, compartmentation and other issues (e.g., gas/electrical certification and fire doors), keeping accurate and comprehensive records of actions taken.

The relevant dutyholder should also set out a rolling maintenance and refurbishment plan (covering the next 3 years), drawing particular attention to the measures that will be put in place to maintain building safety and to engage residents in the process. This should be made available to occupiers.

A fire risk assessment must be undertaken on an annual basis by a competent and qualified assessor, and relevant action undertaken as a result. The conclusions of the assessment must be shared with occupants as must an update on compliance.

Documentation should be updated and maintained as set out in any information requirements. This should include changes to products and maintenance logs. With regards to building safety, work should be carried out by an appropriately qualified professional.

Roles and responsibilities will need to be set out (as a minimum) for:

Building owners – Organisations or individuals that own the freehold of a premises.

Building Safety Co-ordinators – Competent individuals responsible for the day-to-day management of safety within the building, who will also act as a point of contact for residents (where the dutyholder is unable to do so).

Managing agents – Organisations or individuals who are appointed by the building owner to undertake general management of the building.

Landlords – Organisations or individuals who own the leasehold(s) to premises within a building but choose to rent out (on a short or long term basis) their residences.

Residents – Occupiers of a building regardless of their residential tenure.

These roles and responsibilities should apply to all properties within scope, including retrospectively.

# Annex – Prototype system (proposed dutyholders)



# Recommendations

## **In the interim:**

As the precursor to a more expansive database and the development of the 'golden thread', Local Authorities continue to update their records of high-rise buildings, expanding this information to include the particulars of other higher risk buildings, such as hospitals and care homes. Consideration should be given to how this information is shared between regulators.

In shorter time, local teams involving both LA Building Control services, the FRS and relevant third parties (for example, LA housing enforcement teams) should be convened in all areas with large concentrations of high-rise residential buildings (as well as other higher risk buildings). These teams should meet on a frequent basis in order to establish sustainable mechanisms for the collective oversight of 'in scope' buildings and other aspects of partnership working, including enforcement. This will be a first step towards the more formal and durable relationships that will emerge between regulators in Wales.

## **We recommend:**

In the longer term Welsh Government should explore with Welsh local government, FRS and private Building Control Bodies how to develop a single register of buildings 'in scope' for this exercise. This should be with a view to enabling all regulatory partners to benefit from the economies of scale that could be generated from the development of a single digital repository to which regulators operating in all areas of Wales would have access.

We believe that Welsh Government should set a deadline by which landlords and developers of 'in scope' buildings must be in possession of a full set of building records, to be drawn on by regulators where required.

## **We recommend:**

The 30m/ 10 storey threshold limit put forward by the Hackitt Review does not go far enough. Welsh Government should give consideration to a broader scope.

Options for Consideration:

- 1) Residential buildings of 18m/ 7 storeys or more
- 2) Residential buildings of 11m/ 4 storeys or more
- 3) Buildings that fall within a 'risk matrix', in addition to residential buildings above a fixed height (18m/ 7 storeys, or 11m/4 storeys)

## **In the interim:**

Research into the existing building landscape should be undertaken by Welsh Government, including consideration of the impacts of adopting each of the three options outlined. This should draw on the forthcoming NFCC risk-matrix.

## **We recommend:**

Welsh Government should look again at promoting sprinklers in existing 'in scope' buildings, building on the need for all new-builds and converted properties to possess them. Welsh Government should continue to promote fire alarms/smoke detectors in individual dwellings.

Welsh Government should review the options and consider the impacts on practicalities (such as, for example, evacuation procedures), developing a way forward to promote sprinklers and fire alarms/ smoke detectors in higher risk residential buildings.

# Recommendations

**In the interim:**

Welsh Government should undertake a mapping exercise to determine the current roles of BCBs, the FRS and HSE, including charging models and the underpinning legislative framework, and whether these are adequate to the needs of a new system.

Ahead of legislation coming into force, FRS role in the building control approval process for high-rise residential buildings (18m +) should be enhanced. This should apply, as a minimum, to high-rise residential buildings in excess of 18m in height.

Welsh Government should work closely with HSE to determine how its expertise can be accessed by BCBs and the FRS and consider how the three bodies can work jointly together, both on a day-to-day and on a more strategic basis

**We recommend:**

In legislating for changes to both the planning and building control process, the FRS should be made a statutory consultee in the planning approval process for buildings 'in scope'.

**We recommend:**

That the 'prototype' model forms the basis of any new system in the future. Welsh Government should take forward work to develop this proposal, putting in place an appropriate level of detail, prior to consultation.

**We recommend:**

The roles and responsibilities set out in the Construction (Design and Management) Regulations 2015 should form the basis of roles and responsibilities for 'dutyholders' prior to building occupation – i.e., planning, design and construction phases.

**We recommend:**

Welsh Government should bring forward legislation to replace the FSO in order to provide clarity and resolve the basic problems identified. This should include setting out in legislation dutyholders and their roles and responsibilities during the occupation and maintenance/ renovation of buildings 'in scope'.

**We recommend:**

Welsh Government should give consideration to the Occupation Phase of the building lifecycle. It should seek to bring clarity in terms of roles and responsibilities during the occupation phase. This work should include:

- roles and responsibilities for owners
- roles and responsibilities for building safety coordinators

Welsh Government should bring forward legislation with regard to requiring annual Fire Risk Assessments to be undertaken by a suitably qualified individual, having identified any steps needed to address any capacity gaps in the system. This should be mandated for all 'in scope' buildings.

Welsh Government should require that all buildings within scope should develop a building safety case within a reasonable period of time.

# Recommendations

## **We recommend:**

Welsh Government should work with both the social housing and private sector to identify best practice in resident engagement. These models of good practice should be promoted across sectors.

Welsh Government should undertake targeted work with residents (in the private and public sector) to ascertain their requirements and expectations in relation to resident engagement and to hear their experiences first-hand. These should be incorporated into a set of standards for effective resident engagement.

Welsh Government should seek to bring clarity in terms of roles and responsibilities for residents during the occupation phase. This work should include:

- information provision to residents in relation to fire safety and building safety more generally
- roles and responsibilities/expectations on residents

Welsh Government should consider how the provisions of the Renting Homes (Wales) Act can be used to advance these objectives, including how resident roles and responsibilities are promoted and steps that should be taken when these expectations are not satisfied.

## **We recommend:**

We agree that a 'safety case' approach should inform the ongoing management of building safety across the entire building 'lifecycle'. We also agree that the development of a Golden Thread of information is required to underpin the identification, regulation and management of 'in scope' buildings.

The Welsh Government will need to consider how to give practical effect to the Golden Thread. This should include consideration of:

- minimum information requirements, including consideration for different levels or categories of building
- requirements of the digital platform
- 'ownership' of information (roles and responsibilities)
- minimum information to be shared with regulatory bodies
- minimum information to be provided to residents.

## **In the interim:**

Welsh Government should work with building developers now to find out what information is currently collected and how it is used. Ahead of any legislation or more formal guidance, best practice should be identified and promoted.

## **We recommend:**

Welsh Government keep a watchful eye on the work of the Competence Steering Group and give consideration to how their proposals might apply in Wales. This should include supporting the delivery of apprenticeships and CPD.

Welsh Government should work closely with Clients to improve their ability to identify competent contractors, developing guidance and sharing best practice in support of this.

# Recommendations

**We recommend:**

Welsh Government should engage with LAs and FRS to assess existing staffing and competence levels. This should identify where the gaps are in relation to the needs of the future system, including the requirement for joint-working during the planning, construction and refurbishment of 'in scope' buildings.

The FRS should look to identify gaps to better support the 'occupation phase' and how best to regulate in a system where there is greater expectation with regards to fire risk assessments.

Welsh Government, WLGA, LAs, and FRS should work together to ensure that staffing levels and qualifications are adequate to meet the needs of the future system, initially focusing on capability and capacity within the public sector. This should involve consideration of resource levels, 'talent pipelines' and succession planning.

Welsh Government, LAs, FRS and WLGA should consider what formal regional and national arrangements are needed to share knowledge and expertise to support the new system.

**We recommend:**

Welsh Government should consider how to ensure there is sufficient capacity in the Building Control sector to deliver against a new system. This should include a consideration of the role of Approved Inspectors, and careful consideration to the findings of the industry group in relation to Building Control/Building Standards.

**We recommend:**

Welsh Government should work with regulatory bodies (FRS and BCBs) and others to consider the role of enforcement and compliance in Wales. It should make links to the group established in England so as to not replicate work. This work should give consideration to any interim measures that could be put in place using existing powers, as well as longer term consideration of an appropriate system of enforcement.

A mapping exercise should be undertaken to clearly identify all enforcement levers currently available to regulators and how they are currently used and if there are any barriers to their use. Findings from the mapping exercise should be shared amongst regulators so that awareness is raised regarding the various enforcement options available. Welsh Government should consider a formal protocol setting out how the day-to-day link up of the Fire Safety Order and Housing Act 2004 should work, if the need for this is borne out by the mapping exercise.

An appropriate route for redress by residents when internal complaints procedures have been exhausted should also be considered, linking in to the work of the Ministry for Housing Communities and Local Government.