

## Annex 1 – IWFM collated responses to the Home Office and MHCLG consultation questions:

<b>The Regulatory Reform (Fire Safety) Order 2005 (RRO) – call for evidence</b>	
<b>Q12/13: Common areas of buildings: how can the regulatory framework be clarified to ensure fire safety risks are managed in multi-occupied residential buildings where there are likely to be two or more persons responsible for different parts of the building under separate legislation, and how can the two regimes be improved to complement each other?</b>	<p>IWFM's position is that one building safety regime should become applicable so that it becomes clear who the one individual is that has a lead role for ensuring legal responsibilities are maintained.</p> <p>The different pieces of legislation would complement each other much better if the principles of Building a Safer Future (Accountable Person (AP), Building Safety Manager (BSM) - effectively the Responsible Person under the RRO, safety case and golden thread, building safety certificate) would be extended across both pieces of legislation, effectively codifying existing best practice.</p> <p>Members have highlighted different examples:</p> <ul style="list-style-type: none"><li>• The building safety certificate will also help to condition improvements across a whole building.</li><li>• Promoting regulatory audits and required document meetings to ensure a consistent approach throughout a building, which in essence is advocating the safety case principle across different building safety regimes, bringing and linking them altogether.</li></ul> <p>Currently there appears to be a lack of enforcement for the requirement for full co-operation and communication between different organisations/landlord &amp; tenant: enforcing this would bring about an improvement in co-operation.</p> <p>The regimes are likely to be improved when there is greater clarity around competence, especially when uniform principles are applied. For example, there will be clear expectations around the competence for the BSM. The Responsible Person (RP) under the RRO will often carry out similar functions and have very similar responsibilities in a commercial/workplace setting, however there are no clearly defined competence criteria. By widening the regime and having the same competence criteria for similar roles, the regime outcomes – better building safety and safer homes for all – would be achieved against a better and more consistent standard.</p>

	<p>In essence, extending the principles of Building a Safer Future (clear AP, BSM, building safety certificate, safety case and golden thread) would confirm statutory requirements already in place and would ensure they are actually met and achieve objectives.</p>
<p><b>Q14: How should the government ensure the fire safety of a whole building in mixed use (mix of workplace including commercial premises and domestic residential use) where there are two or more persons responsible for respective parts of the buildings under different legislation?</b></p>	<p>There should be clear identification of the lead AP and BSM.</p> <p>Ultimately, having a single building safety regime with one regulator would ensure not just greater transparency about accountability, but also better enforcement. Correct enforcement and sufficient resource provision to ensure enforcement would drive culture change.</p> <p>In addition to the above, we would offer another reason for integrating the different pieces of legislation within one single regime (with one regulator)– the different competence requirements put on the BSM and the responsible person (RP). Building safety would benefit from putting the same competence requirements on people that would be expected to fulfil the same responsibilities. There are great similarities between the function of the BSM and the RP, why would we not expect the RP to demonstrate the same competence as will be expected of the BSM? Having explicit competence requirements for the RP would also ensure professionalising of the RP function. Therefore, the RP would be more likely to understand the importance of delivering safety within a whole building, even in those parts that may not fall within the ownership structure.</p> <p>Other members have also suggested that there should be greater enforcement of existing legislation, including enforcing the co-operation which is already a requirement under the RRO. We could also explore the use of one piece of fire legislation to cover all areas.</p> <p>In any case, the two pieces of legislation must be compatible with each other and achieve the same goal without ambiguity, otherwise confusion will continue to reign.</p>
<p><b>Q16. Are the duties of the Responsible Person sufficient to ensure adequate fire safety measures are in place in the premises at all times?</b></p>	<p>While the duties may be sufficient, there is no consistency around the competence of the RP. Putting clear competence requirements in place will help deliver greater quality outcomes.</p>

<p><b>Q17. Is the expectation that Responsible Persons self-evaluate whether they are able to meet their duties under the Fire Safety Order, or require assistance, the right approach?</b></p>	<p>Responses to this question have been divided- key points (which in turn can be linked to the recommendation articulated in Q16) are listed below but our recommendation comes down to the need for a regulator to assess competence, rather than self-evaluation:</p> <ul style="list-style-type: none"> <li>• There needs to be more prescription and direction around this requirement.</li> <li>• There should be supplementary support from other key regulators, e.g. the local fire authority.</li> </ul>
<p><b>Q30. Are the competent person requirements sufficient? (Yes/No/Don't know)</b></p>	<p>Members are divided about this, which indicated that they are insufficient as expectations and standards differ.</p>
<p><b>Q35. Does the Fire Safety Order provide an effective enforcement framework for different enforcing authorities to operate in relation to the premises that you occupy or regulate? (Yes/No/Don't know)</b></p>	<p>Members are divided about this.</p>
<p><b>Q37. Are the requirements on Responsible Persons to ensure firefighting facilities are maintained in a sufficient state, efficient working order and good repair, effective?</b></p>	<p>Most members consider them to be effective.</p>
<p><b>Q42. What are the key factors that should determine whether a building type is a 'higher risk workplace building' in relation to fire safety when occupied?</b></p>	<ul style="list-style-type: none"> <li>• Numbers and types of occupants</li> <li>• Type of processes, structure and age of building</li> <li>• The presence of sleeping risk</li> <li>• Fire management regimes/strategies and volumes of staff appropriate to the levels of risk</li> <li>• Usage, condition and compliance status of existing fire engineering solutions (e.g. sprinkler system).</li> </ul>
<p><b>Q43. From the building types that have higher fire rates, please select below those that you consider to be 'higher risk workplace buildings' when occupied: (tick all that apply)</b></p>	<p>The following are all considered higher risk workplace buildings:</p> <ul style="list-style-type: none"> <li>• Prisons</li> <li>• Hospitals</li> <li>• Supported/sheltered housing</li> <li>• Residential educational buildings</li> <li>• Others:</li> </ul>

	<ul style="list-style-type: none"> <li>○ Anywhere that vulnerable people are housed (specifically local authority).</li> <li>○ Industrial depots with fuel, oils, welding activities, garages, high electrical voltage infrastructure, offshore facilities.</li> <li>○ All educational buildings including universities, schools, nurseries; creche facilities, day centres for older people, community buildings, places of assembly including churches, performance and sport.</li> </ul>																		
<p><b>Q44. Are there any particular buildings within these broad categories (see definitions used at para 60) that you are especially concerned about from a fire safety perspective? (Yes/No/Don't know)</b></p>	<ul style="list-style-type: none"> <li>● Student accommodation, hospitals, care/nursing homes</li> <li>● Prisons – due to the governance and rigid process that is needed during evacuation – the others are high risk but with process and trained staff less risky than a prison.</li> <li>● Sports and leisure, schools.</li> <li>● Where people are not able to assist themselves in means of escape and where interactions with members of the public are of higher risk</li> </ul>																		
<p><b>Q45. Are the provisions of the Fire Safety Order sufficient to ensure fire safety in 'higher risk workplace buildings'? (Yes/No/Don't know)</b></p>	No																		
<p><b>Q47-50: Which, if any, of the following elements relating to fire safety proposed in the Building a Safer Future consultation relevant to fire safety should be considered for higher risk workplace buildings under the Fire Safety Order?</b></p>	<table border="1"> <thead> <tr> <th></th> <th>Higher risk workplace buildings</th> <th>Workplace and other non-domestic buildings</th> </tr> </thead> <tbody> <tr> <td>Duties of the accountable person</td> <td>√</td> <td>√</td> </tr> <tr> <td>Building Safety Manager</td> <td>√</td> <td>√</td> </tr> <tr> <td>Safety case regime</td> <td>√</td> <td>√</td> </tr> <tr> <td>Digital golden thread of information</td> <td>√</td> <td>√</td> </tr> <tr> <td>Enforcement and compliance</td> <td>√</td> <td>√</td> </tr> </tbody> </table>		Higher risk workplace buildings	Workplace and other non-domestic buildings	Duties of the accountable person	√	√	Building Safety Manager	√	√	Safety case regime	√	√	Digital golden thread of information	√	√	Enforcement and compliance	√	√
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**Building a safer future, proposals for reform of the building safety regulatory system**

<p><b>Q. 1.1 Do you agree that the new regime should go beyond Dame Judith's recommendation and initially apply to multi-occupied residential buildings of 18 metres or more (approximately 6 storeys)? Please support your view</b></p>	<p>Yes, we consider that all multi-occupational, mixed use and commercial buildings should fall under one building safety regime.</p> <p>However, the new regime needs to have time to bed in. While new buildings should come under the regime immediately, more time should be allocated for existing buildings or the initial phase should cover a smaller number of buildings, perhaps starting with over 10/30 storeys. The development of prioritisation criteria for buildings could help to refine a phased implementation programme.</p> <p>Please find below our answers to the Home Office consultation on the Regulatory Reform (Fire Safety) Order.</p>
<p><b>Q. 1.2 How can we provide clarity in the regulatory framework to ensure fire safety risks are managed holistically in multi-occupied residential buildings?</b></p>	<p>Existing legislation currently provides different functions. We advise that clarity can be found by having one single regulator for the residential market, mixed use buildings and workplace (in particular higher risk workplaces) to enforce on all relevant regulations.</p> <p>We would also note that other regulatory reviews such as the work by Lord Best and on leasehold reform will have a further impact on how the existing and proposed framework operates. Any implementation following these reviews should aim to simplify and not complicate matters.</p>
<p><b>Q. 1.3 If both regimes are to continue to apply, how can they be improved to complement each other?</b></p>	<p>Dame Hackitt recommended a systematic whole building approach; the scope of the current proposals appears to differ from these objectives by breaking out the management and oversight of mixed-used commercial segments.</p> <p>In addition, the <b>material scope</b> of the proposed regime is only linked to fire and structural safety. This scope should be extended to include wider life and building safety so as to achieve safe homes and safe buildings. Only focusing on fire and structural safety is contrary to providing a holistic approach to building safety. In addition, given the complexity of buildings as systems, it should be approached more as whole system, rather than separating out strands of safety and providing a regime in isolation.</p> <p>Furthermore, if we try to achieve resident safety, wider life safety and potential hazards need to be included in the scope. After all, the purpose of the regime is not to look after property and assets,</p>

	<p>rather it is meant to provide safe homes and therefore it needs to be able to consider all the different elements and safety features that would influence that, including behaviour.</p> <p>Any areas of mixed use appear not to be considered within the current scope of these proposed regulations. Mixed use could have a dramatic effect on occupants and therefore a 'whole building' should remain as the objective.</p> <p>In addition, at this point in time, it is unclear what is proposed in respect of structural safety.</p>
<p><b>Q.1.5. Linked to your answer above, which of the 'higher-risk workplaces' in paragraph 42 would you consider to be higher-risk during the design and construction phase?</b></p>	<p>The scope should include all the higher risk workplaces listed. Members consider that this should be expanded to complex buildings.</p> <p>In addition, during the occupation phase, educational buildings (including independently run student accommodation) and care homes should be included.</p>
<p><b>Q. 1.6. Please support your answer above, including whether there are any particular types of buildings within these broad categories that you are particularly concerned about from a fire and structural perspective?</b></p>	<p>A whole building approach for mixed use needs to be better captured.</p> <p>When including educational buildings, this needs to include independently-owned student accommodation (i.e. not operated by an education body). The scope should also be extended to care homes.</p> <p>Requirements should also apply when any of the building types determined to be in-scope are refurbished or developed.</p>
<p><b>Q. 1.8. Where there are two or more persons responsible for different parts of the building under separate legislation, how should we ensure fire safety of a whole building in mixed use?</b></p>	<p>The accountability to ensure safety in the building should go back to the ultimate beneficiary, i.e. to the freeholder and put an obligation on them to ensure whole building safety.</p> <p>Where responsibilities are then divided by the freeholder through allocation of lease etc, the building safety certificate should name and hold accountable not just the Accountable Person, but all relevant parties whose responsibilities affect the overall safety of the building and /or residents. The certificate should specify the requirement for all parties to cooperate and coordinate.</p>

	<p>Where enforcement is undertaken by different parties due to the nature of the activity, there should still be a single regulator who takes primary responsibility and as a minimum would arbitrate over conflicting decisions.</p> <p>Ultimately, having a single building safety regime with one regulator would ensure not just greater transparency about accountability, but would also ensure better enforcement. Correct enforcement and sufficient resource provision to ensure that enforcement would drive culture change.</p> <p>Government also needs to consider the implications for the insurance industry and the associated cost burden that may result from the above.</p> <p>In addition to the above, we would offer another reason for aligning the different regimes towards one single regime – the different competence requirements put on the BSM and the responsible person (RP). Building safety would benefit from putting the same competence requirements on people that would be expected to fulfil the same responsibilities. There are great similarities between the function of the BSM and the RP, why would we not expect the RP to demonstrate the same competence as will be expected of the BSM? Having explicit competence requirements for the RP would also ensure a professionalising of the RP function. The RP would therefore be more likely to understand the importance of delivering safety within a whole building, even in those parts that may not fall within the ownership structure.</p>
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<p><b>2.1 Do you agree that the duties set out above are the right ones?</b></p>	<p>No, there is agreement subject to the following:</p> <p>Circumstances often exist where the Main Designer is not the Principal Designer. Legislation should state that the lead designer should by default take on the Principal Designer duties rather than the appointment of a third party.</p> <p>The industry steering group led by CSC and the working groups operating beneath it have been exploring the roles of Clerk of Works and Lead Engineer. Both of these roles were referred to in Judith Hackitt's original report but are not mentioned in this consultation.</p>
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	<p>We believe these roles should be introduced as separate mandatory independent appointments and should perform independent verification functions for building works. The independence of these roles in the planning and approval process is essential to prevent self-certification by the Principal Contractor or where a Principal Designer is an employee of the client or principal contractor.</p>
<p><b>2.2 Are there any additional duties which we should place on dutyholders? Please list.</b></p>	<p>Yes.</p> <p>There should be an obligation on the Client to conduct a pre-occupancy fire risk assessment. This requirement was recommended by Judith Hackett in her original report but is not included as a proposal in this consultation. This would help to maintain continuity between regulatory regimes. In addition, the client should also ensure that the relevant information is not just shared with the building safety regulator, but also with relevant people such as the BSM, if one is already appointed at the construction phase, or in any case as soon as one is appointed.</p> <p>To promote the concept of whistleblowing recommended in the report. All parties should have a proactive duty not just to report mandatory occurrences, but to report to the regulator/licencing body where, having been given reasonable opportunity to do so, other dutyholders fail to fulfil their legal obligations.</p> <p>Designers should not have to 'take reasonable steps' to provide information. They should simply be required to provide information.</p>
<p><b>2.3 Do you consider that a named individual, where the dutyholder is a legal entity, should be identifiable as responsible for building safety? Please support your view.</b></p>	<p>Yes, to put this into a wider context, the accountable person must understand the accountability should include life safety (including but not limited to: legionella, asbestos, M&amp;E), fire safety, structural safety. If the scope is restricted to fire safety and structural, it may appear that the new proposals protect property rather than people.</p> <p>Without being identifiable, no clarity will be provided for stakeholders, including the regulator, the BSM and residents.</p> <p>Members also agree with the responsibilities of the Accountable Person:</p>

	<ul style="list-style-type: none"> <li>• To promote building safety</li> <li>• To appoint the BSM (and to ensure enough funding/resources/team for the BSM)</li> <li>• To register buildings for safety certificate</li> <li>• To be a senior named individual in case of an organisation</li> </ul>
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<b>2.5 Do you agree that fire and rescue authorities should become statutory consultees for buildings in scope at the planning permission stage? If yes, how can we ensure that their views are adequately considered?</b>	Yes, consultation with fire and rescue authorities could be a pre-condition of proceeding to the next step. Engagement with them would ensure that fire safety is considered appropriately at the earliest possible stage.
<b>2.6 Do you agree that planning applicants must submit a Fire Statement as part of their planning application? If yes, are there other issues that it should cover? If no, please support your view including whether there are alternative ways to ensure fire service access is considered.</b>	Yes, but what is required in the statement needs to be well defined. For example, the criteria regarding fire fighter access to water supplies that need to be met at this stage must be specified and the statement should verify that these elements have been considered in the design and will be met.
<b>2.7 Do you agree that fire and rescue authorities should be consulted on applications for developments within the 'near vicinity' of buildings in scope? If so, should the 'near vicinity' be defined as 50m, 100m, 150m or other. Please support your view.</b>	Yes, but this is dependent on the building types within the vicinity. Building types by category should be identified and captured in the fire statement which can then be used by the planning authority to determine the extent of consultation required.
<b>2.10 Would early engagement on fire safety and structural issues with the building safety regulator prior to gateway two be useful? Please support your view</b>	In principle yes but there are some practicalities to consider. Is there resource available for early consultation / or conversely would mandatory consultation help to manage resource.
<b>2.11 Is planning permission the most appropriate mechanism for ensuring</b>	Yes, a single route is the best approach to ensure consistency.

<p><b>developers consider fire and structural risks before they finalise the design of their building? If not, are there alternative mechanisms to achieve this objective?</b></p>	<p>Government must ensure that there is sufficient planning resource to facilitate this approach which is currently a concern.</p>
<p><b>2.12 Do you agree that the information at paragraph 89 is the right information to require as part of gateway two? Please support your view.</b></p>	<p>We are concerned that the requirement for 3D plans would be ineffective unless there is a standard specification to ensure consistency, longevity and future use, especially on the CDE. It is recommended that this requirement is phased in to ensure that technology, availability and training requirements can be satisfied.</p> <p>Legislation needs to ensure that the building model provided at the end of any project is the as built model not the as planned model. Therefore, there needs to be further obligations to ensure these plans are updated.</p>
<p><b>2.13 Are these the appropriate dutyholders to provide each form of information listed at paragraph 89?</b></p>	<p>The Industry Steering Group led by CSC and the working groups operating beneath it have been exploring the roles of Clerk of Works and Lead Engineer. Both of these roles were referred to in Judith Hackitt's original report but are not mentioned in this consultation. We believe these roles should perform independent verification functions for building works at the appropriate gateway points.</p> <p>The independence of these roles in the planning and approval process is essential to prevent self-certification by the Principal Contractor or where a principal Designer is an employee of the client or principal contractor.</p> <p>It also needs to be clear that for existing buildings the obligation should be to update information (rather than layer new information on top so that the information for now is clear).</p>
<p><b>2.14 Should the Client be required to coordinate this information (on behalf of the Principal Designer and Principal Contractor) and submit it as a package, rather than each dutyholder submit information separately?</b></p>	<p>Yes, the onus should be on the client to lead this process as they have the ultimate duty for the work as defined by CDM 2015. As per the answer given for question 2.13 above there should be an obligation on the Client to obtain independent verification via the lead engineer that the information as one package provides a safe building.</p>

<p><b>2.15 Do you agree that there should be a ‘hard stop’ where construction cannot begin without permission to proceed? Please support your view</b></p>	<p>Yes, the potential of a hard stop delaying the construction programme should provide sufficient incentive to drive a culture change aiming for compliance and excellence.</p> <p>For existing buildings, any work that affects the safety case should include a process to understand the existing safety case and how it will be affected by proposed works, with a full sign off process.</p>
<p><b>2.16 Should the building safety regulator have the discretion to allow a staged approach to submitting key information in certain circumstances to avoid additional burdens? Please support your view.</b></p>	<p>Yes, providing that overall safety is not compromised. For partial occupation there would need to be full commissioning of the occupied parts.</p>
<p><b>2.17 Do you agree that it should be possible to require work carried out without approval to be pulled down or removed during inspections to check building regulations compliance? Please support your view.</b></p>	<p>Yes, and this check should be carried out by independent assessment.</p>
<p><b>2.18 Should the building safety regulator be able to prohibit building work from progressing unless non-compliant work is first remedied? Please support your view</b></p>	<p>Yes, otherwise ongoing work may cover up non-compliant work if it is not first remedied.</p>
<p><b>2.21 Do you agree that the Principal Contractor should be required to consult the Client and Principal Designer on changes to plans?</b></p>	<p>Yes</p>
<p><b>2.22 Do you agree that the Principal Contractor should notify the building safety regulator of proposed major changes that could compromise fire and structural safety for approval before carrying out the relevant work?</b></p>	<p>No, the Client, who obtained approval at the previous gateway should make the submission and should follow the same process as required at the gateway to obtain approval.</p>

<p><b>2.23 What definitions could we use for major or minor changes?</b></p> <ul style="list-style-type: none"> <li>• Any design change that would impact on the fire strategy or structural design of the building;</li> <li>• Changes in use, for all or part of the building;</li> <li>• Changes in the number of storeys, number of units, or number of staircase cores (including provision of fire-fighting lifts);</li> <li>• Changes to the lines of fire compartmentation (or to the construction used to achieve fire compartmentation);</li> <li>• Variations from the design standards being used;</li> <li>• Changes to the active/passive fire systems in the building;</li> </ul> <p><b>Other – please specify</b></p>	<p>The first should be used with the others used in ACOP as clarification of what constitutes a change.</p>
<p><b>2.24 Should the building safety regulator be required to respond to notifications of major changes proposed by the dutyholder during the construction phase within a particular timescale? If yes, what is an appropriate timescale?</b></p>	<p>Yes. This is important to allow building work to be completed in good time and not result in extended costs for Clients. The timescale would depend on the specific changes, but there could be several bands to help guide this.</p>
<p><b>2.26 Do you agree that a final declaration should be produced by the Principal Contractor with the Principal Designer to confirm that the building complies with building regulations? Please support your view.</b></p>	<p>Yes, but as stated in response to questions 2.1 and 2.13, the industry steering group led by CSC and the working groups operating beneath it have been exploring the roles of Clerk of Works and Lead Engineer. Both of these roles were referred to in Judith Hackitt’s original report but are not mentioned in this consultation. We believe these roles should perform independent verification functions for building works at the appropriate gateway points.</p>
<p><b>2.29 Do you agree that the accountable person must apply to register and meet additional requirements (if necessary) before</b></p>	<p>Yes, if this is not conducted in advance then on assessment a licence is refused, this would cause considerable upheaval for residents who have been granted a lease.</p>

<p><b>occupation of the building can commence? Please support your view.</b></p>	
<p><b>2.30 Should it be an offence for the accountable person to allow a building to be occupied before they have been granted a registration for that building? Please support your view.</b></p>	<p>Yes, furthermore the Government should consider whether it should be permissible even for a lease to be issued to a resident for a building which does not yet have a safety certificate.</p>
<p><b>2.31 Do you agree that under certain circumstances partial occupation should be allowed? If yes, please support your view with examples of where you think partial occupation should be permitted</b></p>	<p>Partial occupation in the context of whole building and allowing non-residential parts to be operated should not be prohibited if whole building safety is not compromised.</p> <p>Partial occupation of residential parts should only be done where the safety of residents can be assured and where the completion of the whole will not substantially change the arrangements. Systems should be fully commissioned for occupied floors.</p> <p>There should also be a single accountable person throughout the partial occupation stage who is responsible for both the operational elements and those under construction.</p>
<p><b>2.32 Do you agree with the proposal for refurbished buildings? Please support your view</b></p>	<p>Yes, any refurbishment that significantly alters the measures in place for building safety should be subject to the same process.</p> <p>Furthermore, legislation should include mandatory obligation to consult FEF and maintain the golden thread.</p>
<p><b>3.1 Do you agree that a safety case should be subject to scrutiny by the building safety regulator before a building safety certificate is issued? Please support your view.</b></p>	<p>Yes, this will ensure that the accurate and up to date building information is available and that the right appointments have been made and can be held accountable.</p>
<p><b>3.2 Do you agree with our proposed content for safety cases? If not, what other</b></p>	<p>No, all of the items referred to are appropriate but there should additionally be specific reference to risk assessment.</p>

<p><b>information should be included in the safety case?</b></p>	<p>The safety case should also contain building information beyond fire and structural safety, including asbestos, digital record, full plans (as built), control plans, Health and Safety File, Fire and Emergency File (the actual file should be evidenced, not just a reference to), etc. The resident engagement strategy should be evidenced, not referenced. A 'purple thread' should also be included and evidenced, for residents/occupants with additional evacuation needs.</p> <p>The presence of a complete golden thread is not just critical for life safety, it will have beneficial effects in many more areas beyond life safety, improving the lifecycle of the building and the quality of life of those within it. In addition, other aspects of life safety impact upon fire safety so there is a need to keep all documentation together.</p> <p>A non-exhaustive list of what should be included in the safety case file can be found in WG8's full report.</p>
<p><b>3.3 Do you agree that this is a reasonable approach for assessing the risks on an ongoing basis? If not, please support your view or suggest a better approach</b></p>	<p>No, unless the scope has been extended to include other life safety issues, information and evidence (including but not limited to: legionella, asbestos, M&amp;E) fire safety, structural safety. The regulator should, however, be free to specify the lifecycle of safety case reviews based on identified risks rather than a fixed detached frequency.</p>
<p><b>3.4 Which options should we explore, and why, to mitigate the costs to residents of crucial safety works?</b></p>	<p>To ensure resident safety is maintained as expediently as possible it would be helpful if Government would consider the establishment of a fund to provide short term loans to allow works to be undertaken. This should be for unforeseen issues which at the time of approval were not identifiable and had been deemed safe at that time.</p> <p>To ensure that recovery of cost can be determined within a reasonable period. The claims process should operate to statutory time limited process (similar to that in place for personal injury claims). In such cases the insurer would be able to pay out knowing that recovery of their costs will be achieved within a reasonable period.</p>
<p><b>3.5 Do you agree with the proposed approach in identifying the accountable person? Please support your view.</b></p>	<p>Yes, but it would be helpful to be clearer about the language used - responsibility should be given to the <u>beneficiary</u> of funds not the party who <u>receives</u> them. For example, an agent receives funds on behalf</p>

of an Accountable Person and may hold these in an account for them, but they cannot then use those funds expect for in prescribed circumstances.

WG8, operating under the Industry Steering Group led by CSC has considered the Accountable Person in detail. WG8 has proposed a definition of the Accountable Person which we would encourage Government to adopt. This is copied below.

The identification of a single accountable person at Board level is a critical component, but they need to be fit and proper. This needs to be tested as part of the appointment of the licence.

Taking the principles of CDM as a model they must also demonstrate an understanding of their duties, which could be achieved through the registration process by the Regulator.

#### **WG8 Accountable Person**

##### **Accountable Person**

The Accountable Person will be the named, natural person, that will be held responsible and accountable for building safety by the Regulator. They may not always be the owner of the building because of the many different ownership and lease arrangements in place within the world of residential accommodation provision (see below and Appendix B to this document). The Accountable Person will need to demonstrate to the Regulator that they are 'fit and proper' and have a basic understanding of the responsibilities that come with 'ownership'.

##### **Freeholder - situation where freehold and 'control' of the building remain together**

The ultimate legal 'owner' of the freehold of a building. If that is an individual, then that individual will be the 'named person', taking on the Accountable Person role. If the freehold is held by an organisation (legal entity), then that organisation will be required to name a senior individual (e.g. Director or Chairperson) to take responsibility for the Accountable Person on behalf of that organisation. In either case, the named, natural individual must be resident in England or Wales. The freeholder or the named person for the organisation will need to demonstrate that they are 'fit and proper' and have a basic understanding of the responsibilities that come with ownership.

##### **Accountable Person – situation where freehold and 'control' has separated**

Often the Accountable Person refers to the legal entity that has the responsibility in law for the management functions. This could be the Freeholder (an individual or an organisation - as

	<p>above). However, it is common for the management responsibility to have been transferred to another party by way of either:</p> <ul style="list-style-type: none"> <li>• A document recognised in existing legislation as transferring management responsibility – e.g. a lease, or common-hold community association document</li> <li>• A right in law to take on management responsibility, e.g. right to manage (RTM)</li> </ul> <p>In all cases, where a legal entity (organisation) has management responsibility, a named senior individual (e.g. Director or Chairperson), residing in England and Wales, must take responsibility for the licence on behalf of that party. Should an individual not be forthcoming then that legal entity <i>or the officers of that legal entity</i> should remain accountable in law (jointly and severally) and legislation will be required granting authority to the Regulator to take appropriate action. This, it is suggested, may include a financial penalty, or in extreme cases making a forced appointment of a third-party manager/Accountable Person (the precedent for which is established in First Tier Tribunal), or a revocation of the licence.</p>
<p><b>3.6 Are there specific examples of building ownership and management arrangements where it might be difficult to apply the concept of an accountable person? If yes, please provide examples of such arrangements and how these difficulties could be overcome.</b></p>	<p>Yes, there are multiple circumstances where this will be difficult.</p> <p>Examples include:</p> <ul style="list-style-type: none"> <li>• Refusal of individuals to take on the role when part of a commonhold of RTM.</li> <li>• If an RTM fails, the responsibility would need to move up one level and that party may not be competent to obtain a licence, or it could be difficult to assess who that party is.</li> </ul> <p>It is suggested that in such cases all parties are held to account as joint and several.</p> <p>It is unclear how the legislation could be enforced if a property is owned by an individual or organisation that is non-domicile.</p>
<p><b>3.7 Do you agree that the accountable person requirement should be introduced for existing residential buildings as well as for new residential buildings? Please support your view.</b></p>	<p>Yes, there should be consistent standards of accountability.</p> <p>It would be irresponsible in the current climate not to implement measures that seek to bring existing buildings to an equivalent standard of management.</p> <p>A transition period would be appropriate.</p>

<p><b>3.8 Do you agree that only the building safety regulator should be able to transfer the building safety certificate from one person/entity to another? Please support your view.</b></p>	<p>Yes, Government does need to carefully consider how the transition process is managed in relation to the wider conveyancing process.</p> <p>Should a building be purchased (necessitating a change in Accountable Person), the previous selling party cannot be held accountable for a property they no longer own and yet for the safety of residents the suitability and safety arrangements required of the new Accountable Person must be put in place quickly.</p> <p>It may be appropriate for the licencing process to involve two stages; first an assessment of suitability and secondly a formal licence application.</p>
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<p><b>3.9 Do you agree with the proposed duties and functions of the building safety manager? Please support your view.</b></p>	<p>No, this is too restrictive in scope; it appears to protect property rather than people due to its focus on fire and structural safety.</p> <p>It should be extended to include other life safety issues, information and evidence (including but not limited to: legionella, asbestos, M&amp;E), fire safety and structural safety.</p> <p>It should be foreseeable that the BSM will be expected by the residents to understand further issues than that detailed in the proposed duties (e.g. legionella, maintenance of plan and machinery) as described above in response to Q.3.2</p> <p>The consultation implies that in the majority of cases the Accountable Person will also act as BSM. We believe that this will be the minority. As such, the duties of each party are not sufficiently distinct. By way of example, Para 169 states that the Accountable Person cannot delegate their fundamental duties and yet it is the BSM that has to maintain the safety case not the Accountable Person.</p> <p>For the BSM to ensure fire risk assessment is undertaken for the whole building they require authority in law over other parties with whom they have no direct responsibility. To make this effective, as detailed in the response to Q1.8: ('Where responsibilities are then divided by the freeholder through allocation of lease etc.'), the building safety certificate should name and hold accountable not just the Accountable Person but all relevant parties whose responsibilities affect the overall safety of the building and /or residents. The certificate in turn should specify the requirement for all parties to cooperate and coordinate.</p> <p>This could in turn be extended with reference to achieving a whole building risk assessment.</p> <p>It is suggested that a further explicit duty is placed on the BSM to keep the Accountable Person informed regarding the effectiveness of building safety measures and any circumstances where building or resident safety is compromised, including mandatory occurrence reporting.</p>
<p><b>3.10 Do you agree with the suitability requirements of the building safety manager? Please support your view</b></p>	<p>Yes and no. The funding requirement should not reflect on the suitability of the BSM (paragraph 170). Rather the availability of funding should be a criterion assessed when considering the suitability of the Accountable Person, as they should be providing the resource.</p>

	<p>In addition, when it is an organisation providing the BSM role, then the organisation should be assessed on their resource provision towards their employee, the allocated BSM. This BSM should, of course, in turn demonstrate their competence for the role.</p> <p>WG8, operating with the framework of the CSG, under the Industry Steering Group, whose function was to determine the competency requirements for a BSM, has concluded that in many cases the BSM will need to be associated with a larger organisation to have access to the right resources and competent advice. As such, WG8 proposed the introduction of a Residential Accommodation Operator (RAO) which could be appointed by the Accountable Person to provide a Building Safety Coordinator (a BSM).</p> <p>The RAO would need to be a recognised function in law so that it too would have accountability.</p> <p>Government is asked to fully review the proposal by WG8 and introduce the option of a Residential Accommodation Operator.</p>
<p><b>3.11 Is the proposed relationship between the accountable person and the building safety manager sufficiently clear? Please support your view.</b></p>	<p>As detailed in response to Question 3.10, WG8, operating under the Industry Steering Group led by CSC, whose function was to determine the competency requirements for a BSM, has concluded that in many cases the BSM will need to be associated with a larger organisation to have access to the right resources and competent advice. WG8 proposed the introduction of a Residential Accommodation Operator which could be appointed by the Accountable Person to provide a Building Safety Coordinator.</p> <p>It's important to state that the BSM needs to have the autonomy to carry out necessary actions and take suitable decisions.</p> <p>The RAO would need to be a recognised function in law so that it too would have accountability.</p> <p>Government is asked to fully review the proposal by WG8 and introduce the option of a Residential Accommodation Operator.</p>

<p><b>3.12 Do you agree with the circumstances outlined in which the building safety regulator must appoint a building safety manager for a building? Please support your view</b></p>	<p>No, there are two circumstances where this would be appropriate:  1: Where the Accountable Person fails in their duty and their licence/registration is then removed.  2: Where industry is unable to provide a, competent BSM (due to lack of competent persons) in which case the Accountable Person is calling on the regulator to help so that resident safety is not compromised. In this case the BSM should still be accountable to the Accountable Person and not the regulator.  This should be a last resort measure and there should be the possibility for sanctions so that it is not used as a way of the Accountable Person circumventing the BSM requirement.</p>
<p><b>3.13 Do you think there are any other circumstances in which the building safety regulator must appoint a building safety manager for a building? Please support your view with examples.</b></p>	<p>In the event that an Accountable Person's organisation becomes insolvent or bankrupt or in the event an RTM folds.</p> <p>In the event of a sudden loss of the BSM (e.g a fatal accident or medical circumstances).</p>
<p><b>3.15 Under what circumstances should the appointment be ended?</b></p>	<p>This would be dependent upon the circumstances of appointment.</p>
<p><b>3.16 Under those circumstances, how do you think the costs of the building safety manager should be met? Please support your view.</b></p>	<p>If it is an enforcement situation, any additional costs above what was previously budgeted would have to be paid by the Accountable Person.</p> <p>The regulator would need to demonstrate that the costs are in line with the wider marketplace.</p>
<p><b>3.17 Do you agree that this registration scheme involving the issue of a building safety certificate is an effective way to provide this assurance and transparency? If not, please support your view and explain what other approach may be more effective</b></p>	<p>Yes, although the language implies these people are in post whereas the process is that registration must be in place before occupation. It is therefore unclear how some of the requirements can be proved for a new building.</p>
<p><b>3.18 Do you agree with the principles set out in paragraphs 180 and 181 for the process of applying for and obtaining registration?</b></p>	<p><b>Yes, consultation would be particularly important to ensure this is not just a form filling exercise.</b></p>

	<p>As detailed in response to question 3.8, Government does need to carefully consider how the transition process is managed in relation to the wider conveyancing process.</p> <p>Should a building be purchased (necessitating a change in Accountable Person), the previous selling party cannot be held accountable for a property they no longer own and yet for the safety of residents the suitability and safety arrangements required of the new Accountable Person must be put in place quickly.</p> <p>It may be appropriate for the licencing process to involve two stages, first an assessment of suitability and secondly a formal licence application.</p>
<p><b>3.19 Do you agree with the suggested approach in paragraph 183, that the building safety certificate should apply to the whole building? Please support your view</b></p>	<p>Yes, providing that the certificate in turn identifies specific duties and the obligation to cooperate and coordinate.</p> <p>Being explicit about the 'whole' building provides greater clarity to relevant stakeholders to take responsibility for those areas that presently fall in a management gap.</p> <p>As detailed in response to question 1.8, the duty to ensure safety in the building should go back to the ultimate beneficiary, i.e. to the freeholder and put an obligation on them to ensure whole building safety.</p> <p>Where through allocation of lease etc. responsibilities are then divided by the freeholder, the building safety certificate should name and hold accountable not just the Accountable Person but all relevant parties whose responsibilities affect the overall safety of the building and /or residents. The certificate in turn should specify the requirement for all parties to cooperate and coordinate.</p> <p>Overriding legislation is required to create a duty on residential leaseholders (including assured short-term tenancies) for cooperation and coordination, giving the BSM authority to access a leaseholder's demise so they may carry out their duty (balanced with the leaseholder's right for peaceful enjoyment). It should be an offence in legislation should the leaseholder fundamentally refuse access.</p>

<b>3.20 Do you agree with the types of conditions that could be attached to the building safety certificate? Please support your view.</b>	Yes
<b>3.21 Do you agree with the proposals outlined for the duration of building safety certificates? If not, please support your view.</b>	<p>Yes, providing that the regulator has the freedom to alter the frequency based on risk.</p> <p>Government will need to ensure that the regulator is adequately resourced to conduct the safety case reviews in good time and that the Accountable Person should not be penalised in circumstances where the regulator cannot achieve this.</p>
<b>3.22 Do you agree with the proposed circumstances under which the building safety regulator may decide to review the certificate? If not, what evidential threshold should trigger a review?</b>	No, there is agreement with circumstances proposed, but there should be additional specific requirements where there is a significant refurbishment, or partial change of use.

<p><b>4.1 Should the Government mandate Building Information Modelling (BIM) standards for any of the following types and stages of buildings in scope of the new system?</b></p> <p><b>a) New buildings in the design and construction stage, please support your view.</b></p> <p><b>b) New buildings in the occupation stage, please support your view.</b></p> <p><b>c) Existing buildings in the occupation stage, please support your view.</b></p>	<p>Yes, we agree that BIM should be used for a-c.</p> <p>Requirements should include identification of common data points and system requirements to ensure consistency.</p> <p>For existing buildings, information should be updated, not layered, to ensure it truly reflects the current condition of the building.</p>
<p><b>4.3 Are there other areas of information that should be included in the key dataset in order to ensure its purpose is met? Please support your view.</b></p>	<p>The Fire &amp; Emergency File and fire strategy should be included in the key data set as mandatory for all properties to ensure that the information provided is holistic. By way of example the age and condition of equipment as identified through maintenance will have a bearing on the extent of the ongoing management regime.</p> <p>As per the response to Q3.2, the key characteristics should include all elements relevant to life safety and not be limited to structural and fire safety.</p>

	<p>It would also be useful to explore extending the purpose of the key data set to emergency events. As such the key data should provide information in a specified format and be readily available in the event of emergency.</p> <p>It will be particularly important to identify previous dutyholders and works completed, so as to be able to hold people to account if necessary.</p>
<p><b>4.4. Do you agree that the key dataset for all buildings in scope should be made open and publicly available? If not, please support your view.</b></p>	<p>Yes and no, the openness would help ensure accountability and accuracy of historical data. There may, however, be sensitivity around certain building types, especially when they could be considered as national strategic assets or there is occupancy by Crown employees.</p>
<p><b>4.6 Is there any additional information, besides that required at the gateway points, that should be included in the golden thread in the design and construction stage? If yes, please provide detail on the additional information you think should be included</b></p>	<p>The safety case should also contain building information beyond fire and structural safety, including asbestos, digital record, full plans (as built), control plans, Health and Safety File, Fire and Emergency File (the actual file, not just a reference to), etc.</p> <p>The presence of a complete golden thread is not just critical for life safety, it will have beneficial effects in many more areas beyond life safety, improving the lifecycle of the building and the quality of life of those within it. In addition, other aspects of life safety impact upon fire safety so there is a need to keep all documentation together.</p> <p>A non-exhaustive list of what should be included in the safety case file can be found in WG8's full report.</p>
<p><b>4.7 Are there any specific aspects of handover of digital building information that are currently unclear and that could be facilitated by clearer guidance? If yes, please provide details on the additional information you think should be clearer.</b></p>	<p>It would be beneficial if the documentation required for new buildings was defining at Gateway 2. Defining the requirements at Gateway 2 gives greater flexibility to account for the variety and complexity of buildings.</p> <p>This should then be assessed as part of Gateway 3 / in the safety case, making it a legally binding condition of the approval process.</p>

	<p>Similarly, it would be of value for a mandatory check that all required information is present and introduced as part of the conveyancing process.</p>
<p><b>4.8 Is there any additional information that should make up the golden thread in occupation? If yes, please provide detail on the additional information you think should be included</b></p>	<p>Where a building has specific safety features, the information required to be maintained in relation to these could be made a condition of the safety certificate.</p> <p>It is important to stress that information relating to occupied buildings must be updated, not layered, so it is clear which information applies to the building in its current form and what has been superseded.</p> <p>The safety case should also contain building information beyond fire and structural safety, including asbestos, digital record, full plans (as built), control plans, Health and Safety File, Fire and Emergency File (the actual file, not just a reference to), etc. The presence of a complete golden thread is not just critical for life safety, it will have beneficial effects in many more areas beyond life safety, improving the lifecycle of the building and the quality of life of those within it. In addition, other aspects of life safety impact upon fire safety so there is a need to keep all documentation together.</p> <p>Information on assisted and facilitated evacuation of people with disabilities or other conditions which make it difficult to escape independently.</p> <p>Many aspects of the information provisions are already a legal requirement, but experience shows that this requirement is often not met and building information is often fragmented or not available. Bringing the statutory and potential new requirements together in one place would provide benefits much wider than building safety.</p> <p>A non-exhaustive list of what should be included in the safety case file can be found in WG8's full report.</p>
<p><b>4.10 Do you think a 'just culture' is necessary for an effective system of mandatory occurrence reporting? If yes, what do you think (i) Industry (ii) Government can do to</b></p>	<p>Yes, this can be achieved by industry helping to articulate best practice, which can be included in guidance. Many within industry are working to change practices towards value based service delivery, including procuring for value rather than cost. However, it takes time for new norms to be cultivated and seen as standard.</p>

<p><b>help cultivate a ‘just culture’? Please support your view.</b></p>	<p>Government can help the culture change in occupancy by several actions:</p> <ul style="list-style-type: none"> <li>• Make the competence standards a reality as that will provide a framework based on more than just knowledge, but also looking at experience, skills and – importantly - behaviours. Having the statutory role of a BSM, with a competence standard including the above elements, will help drive professionalising building management, which currently can be found in best practice and professional standards.</li> <li>• Enshrining the statutory role and function of the BSM in legislation will help to professionalise the occupation phase and will drive competence throughout the supply chain.</li> <li>• The regulator’s enforcement function must have the necessary ability to sanction any disregard for statutory requirements. Without serious enforcement, there is no incentive to act upon obligations.</li> <li>• During several meetings with Government we were challenged why we were asking for certain requirements to be put as a statutory requirement. It is a reality within the wider built environment that cost is still a huge driver for service provision. While there are businesses and organisations that are trying to change this by procuring for value, it takes time to change attitudes and habits and to make sure that people take informed decisions, understanding the impacts of those decisions. In addition, in challenging economic times, such an approach is exacerbated when organisations are looking to scale back costs while still complying with the minimum legal requirements. Compliance often turns into an exercise where one can get away with the bare minimum.</li> </ul>
<p><b>4.12 Do you agree that the scope of mandatory occurrence reporting should cover fire and structural safety concerns? If not, are there any other concerns that should be included over the longer term?</b></p>	<p>No, the scope should be widened to include wider life and building safety</p>
<p><b>4.13 Do you agree that mandatory occurrence reporting should be based on the categories of fire and structural safety concern reports identified in the prescriptive list in paragraph 222? Please support your view.</b></p>	<p>Yes. Clarification will be needed regarding what constitutes a failure.</p> <p>Additionally, as explored in questions 9.5 and 9.6, any limitation imposed by the Building Act 1984 for taking enforcement action should apply to the requirements of mandatory reporting for occurrences relating to construction products.</p>

<p><b>4.14 Do you have any suggestions for additional categories? Please list and support your view.</b></p>	<p>A further category should be introduced for reporting any serious disregard by an occupant of fire safety or structure matters.</p>
<p><b>4.17 Do you agree that the enhanced competence requirements for these key roles should be developed and maintained through a national framework, for example as a new British Standard or PAS? Please support your view.</b></p>	<p>Yes, when checking the suitability of a dutyholder, this should ensure that any organisation they are employed by will support them with the necessary resources to enable that person to perform their role.</p>
<p><b>4.18 Should one of the building safety regulator's statutory objectives be framed to 'promote building safety and the safety of persons in and around the building'? Please support your view</b></p>	<p>Yes, however as per the response to Q.3.2 this would not be achieved if the body of the regime is limited to fire and structural safety.</p>
<p><b>4.19 Should dutyholders throughout the building life cycle be under a general duty to promote building safety and the safety of persons in and around the building? Please support your view</b></p>	<p>Yes, however as per the response to Q.3.2 this would not be achieved if the body of the regime is limited to fire and structural safety.</p>
<p><b>4.20 Should we apply dutyholder roles and the responsibility for compliance with building regulations to all building work or to some other subset of building work? Please support your view.</b></p>	<p>Yes, it is important to maintain consistent standards and allow for future building alterations to accommodate change of use. It is suggested that the requirement should be consistent with the outcomes described in 2.23 for major and minor changes.</p> <p>The same approach and standards would add value to large multi-use or commercial premises as the same challenges are faced when maintaining all buildings.</p>
<p><b>5.1 Do you agree that the list of information in paragraph 253 should be proactively provided to residents? If not, should different information be provided, or if you have a view on the best format, please provide examples</b></p>	<p>Yes, it would assist greatly if there was a consistent approach to messaging controlled by government through public sector broadcasting. This would have greater credibility and longer-term benefit to building an improved culture.</p>

<p><b>5.2 Do you agree with the approach proposed for the culture of openness and exemptions to the openness of building information to residents? If not, do you think different information should be provided? Please provide examples.</b></p>	<p>Yes, providing that information of a technical nature is understandable. Misinterpretation by residents or excessive time required to explain information to residents would place an excessive burden on the BSM that should be passed down the line to contractors having to provide information in a manner that is understandable. Consideration should be given to how existing legislation supports this and the requirement can be emphasised in new legislation or ACOP.</p> <p>For fire risk assessment it is suggested that a summary should be provided in a prescribed format.</p>
<p><b>5.3 Should a nominated person who is a non-resident be able to request information on behalf of a vulnerable person who lives there? If you answered Yes, who should that nominated person be?</b></p> <ul style="list-style-type: none"> <li>• Relative,</li> <li>• Carer,</li> <li>• Person with Lasting Power of Attorney,</li> <li>• Court-appointed Deputy,</li> <li>• Other (please specify).</li> </ul>	<p>Yes, providing there are clear safeguards that require that person to demonstrate that the nominated person has a legitimate interest.</p>
<p><b>5.4 Do you agree with the proposed set of requirements for the management summary? Please support your view.</b></p>	<p>Specifically concerning the requirement to show how the success will be measured is subjective.</p> <p>Ultimately this is the purpose of the safety case and any further measure seems unnecessary. If this is to be a requirement there needs to be clear guidance to ensure a consistent approach to measurement and a consistent standard of outcomes.</p>
<p><b>5.5 Do you agree with the proposed set of requirements for the engagement plan? Please support your view.</b></p>	<p>Yes, the engagement plan does also need to include how leaseholders should engage with the BSM regarding alterations to their property that will affect building, fire, or life safety.</p>

**5.6 Do you think there should be a new requirement on residents of buildings in scope to co-operate with the accountable person (and the building safety manager) to allow them to fulfil their duties in the new regime? Please support your view.**

Yes, without this requirement for co-operation the BSM / Accountable Person cannot fulfil their function (or would be held negligent through no fault of their own). This needs to be driven through primary legislation to overcome the variety of leases currently in effect.

There also need to be sanctions imposed on residents who do not cooperate. As per the response to Question 4.14, we would anticipate this would link to mandatory reporting.

In this context, the terms landlord and resident needs to be qualified to ensure that consultation occurs with the correct party, for example where the property is sublet (AST) and the resident is not the leaseholder.

**5.7 What specific requirements, if any, do you think would be appropriate? Please support your view**

Leaseholders should consult on alterations, repairs, maintenance etc. to their property which will have an impact on fire, structural or life safety, so that they understand the requirements necessary to maintain the building fire strategy. This should be defined in the resident engagement strategy. Health considerations should also be reported, for example pest infestation.

This duty should specifically define a statutory right of 'appropriate and proportionate' access for the purposes of ensuring safety / avoiding serious and imminent danger.

<p><b>5.8 If a new requirement for residents to co-operate with the accountable person and/or building safety manager was introduced, do you think safeguards would be needed to protect residents' rights? If yes, what do you think these safeguards could include?</b></p>	<p>Yes, requests for access by the BSM, associated with the carrying out of their duties, should be limited to a reasonable number per year. The reason for inspection should always be disclosed.</p> <p>Residents should have a right to demonstrate compliance through other means, e.g. appointing a third party independent competent person to present evidence of compliance.</p> <p>'Proportionate' access should be provided where there is a life safety risk to others.</p>
<p><b>6.2 Do you agree that regulatory and oversight functions at paragraph 315 are the right functions for a new building safety regulator to undertake to enable us to achieve our aim of ensuring buildings are safe? If not, please support your view on what changes should be made.</b></p>	<p>Yes, considering the breadth of these functions, the regulator will need to be well funded to fulfil these duties and be able to properly enforce these requirements.</p> <p>The regulator would also need to ensure there are appropriate communication channels in place when other bodies are involved so that a uniform approach is taken towards specific issues.</p>
<p><b>6.3 Do you agree that some or all of the national building safety regulator functions should be delivered ahead of legislation, either by the Joint Regulators Group or by an existing national regulator? Please support your view.</b></p>	<p>Yes, if we are serious about delivering a changed approach as soon as possible then we should collaborate to start providing guidance on how the new regime and regulator would work in practice.</p>
<p><b>7.1 Government agrees with the Competence Steering Group's recommendations for an overarching competence framework, formalised as part of a suite of national standards (e.g. British Standard or PAS). Do you agree with this proposal? Please support your view</b></p>	<p>Yes, we agree with the approach and have collaborated to this effect with wider industry by way of IWFM providing the secretariat for WG8, who have developed a draft competence framework/standard for the BSM.</p>

<p><b>7.2 Government agrees with the Competence Steering Group’s recommendations for establishing an industry-led committee to drive competence. Do you agree with this proposal? Please support your view.</b></p>	<p>Yes, the industry-led body should build on the work already carried out by the different working groups from the CSG. WG8 has already developed a draft framework.</p>
<p><b>7.3 Do you agree with the proposed functions of the committee that are set out in paragraph 331? Please support your view.</b></p>	<p>Yes, fully supportive.</p> <p>We would advise that CSCS and SSIP are included with these groups to ensure that the same culture and competency are driven through a wider group of trades.</p>
<p><b>7.4 Do you agree that there should be an interim committee to take forward this work as described in paragraph 332? If so, who should establish the committee? Please support your view.</b></p>	<p>Yes, the interim committee should build on the work already carried out by the CSG and appoint members from within that group.</p>
<p><b>8.12 Do you agree with the proposal for the recognition of third-party certification schemes in building regulations? Please support your view.</b></p>	<p>Yes.</p>
<p><b>8.13 Do you agree that third-party schemes should have minimum standards? Please support your view.</b></p>	<p>Yes, if there aren’t minimum standards then it would devalue the meaning of having any standard. Having minimum standards would help professionalise the wider industry.</p>
<p><b>9.1 Do you agree with the principles set out in the three-step process above as an effective method for addressing non-compliance by dutyholders/accountable persons within the new system?</b></p>	<p>Yes, however this should also include occupiers and other dutyholders who have an obligation to cooperate with those parties.</p>
<p><b>9.2 Do you agree we should introduce criminal offences for:</b></p>	<p>When considering the offences of a BSM we would refer back to the original proposal by Judith Hackitt and the distinction made between the accountability of a person, which cannot be delegated, and the</p>

<p><b>(i) an accountable person failing to register a building;</b>  <b>(ii) an accountable person or building safety manager failing to comply with building safety conditions; and</b>  <b>(iii) dutyholders carrying out work without the necessary gateway permission?</b></p>	<p>responsibility given to a person by way of discharging duties. Currently it is unclear how the BSM and Accountable Person's liability would in practice be separated.</p> <p>Consideration also needs to be given to how other parties who, through the course of any investigation, are found not to have fulfilled obligations defined in other legislation. In such cases, the regulator has an obligation to notify the relevant enforcement authority and co-operate with them.</p>
<p><b>9.3 Do you agree that the sanctions regime under Constructions Products Regulations SI 2013 should be applied to a broader range of products? Please support your view.</b></p>	
<p><b>9.4 Do you agree that an enhanced civil penalty regime should be available under the new building safety regulatory framework to address non-compliance with building safety requirements as a potential alternative to criminal prosecution? Please support your view.</b></p>	<p>Yes, this should include sanctions for occupiers who fail to cooperate with the BSM.</p>
<p><b>9.5 Do you agree that formal enforcement powers to correct non-compliant work should start from the time the serious defect was discovered? Please support your view.</b></p>	<p>Yes, but the potential implications on insurance industry need to be considered.</p>