

## **IWFM submission to the Home Office's call for evidence on the Regulatory Reform (Fire Safety) Order 2005**

**July 2019**

The Institute of Workplace and Facilities Management (IWFM) welcomes the Government's call for evidence on the Regulatory Reform (Fire Safety) Order 2005 published on 6<sup>th</sup> June and also its programme of work to reform the building regulations and fire safety system.

### **IWFM**

IWFM is the professional body for workplace and facilities professionals. Driving change for the future, it builds on the proud heritage of 25 years of the British Institute of Facilities Management.

We exist to promote excellence among a worldwide community of over 17,000 and to demonstrate the value and contribution of workplace and facilities management to society and the economy more widely. We empower professionals to upskill and reach their potential for a rewarding, impactful career. We do this by advancing professional standards, offering guidance and training, developing new insights and sharing best practice.

### **Workplace and facilities management**

Workplace and facilities professionals are responsible for services that enable and support business performance. Roles cover management of a wide range of areas including health and safety, risk, business continuity, procurement, sustainability, space planning, energy, property and asset management. They typically oversee activities like catering, cleaning, building maintenance, environmental services, security and reception.

Beyond the built environment, workplace recognises the joint responsibility of facilities management, IT and human resources to achieve optimal performance between people, technology and workspace, anywhere that work happens, including hospitals, hotels, student accommodation, care homes and many other types of facilities.

### **IWFM engagement to date**

Following the tragic events at Grenfell Tower in June 2017, IWFM commenced work to improve life safety best practice for managing buildings, to help ensure that such a tragedy could not occur again.

Since then, members of the Life Safety Working Group (LSWG) have been working together with the wider built environment through the Industry Response Group and the Construction Industry Council to articulate the issues that need to be addressed and their potential solutions. We provided recommendations towards Dame Judith Hackitt's 'Building a Safer Future: Independent Review of Building Regulations and Fire Safety: Final Report (the Hackitt Review).

We are collaborating with other stakeholders to realise the challenge to industry within many of the recommendations, especially those on competence in Chapter 5 of the Hackitt Review. We are a key supporter of the development of the Competency Framework, by way of providing the secretariat for WG8 - competency for the Building Safety Manager (BSM), with IWFM members actively participating in other competency working groups.

This response to the Home Office consultation on the *Regulatory Reform (Fire Safety) Order 2005* (RRO) and our response to the proposals made in the MHCLG consultation *Building a Safer Future* are made from a facilities management perspective and while a holistic/whole lifecycle approach is taken, we do not presume to provide conclusive solutions for the whole building process. We support the recommendations made by the Government in WG8's report, which is due to be published as part of the IRG Competency Steering Group report in early August.

### **IWFM response**

IWFM is engaging with the RRO call for evidence because many facilities managers take on the role of the responsible person, if not formally then at least materially.

Our engagement with the BSM proposals stems from the fact that FMs either already perform that role or are part of that particular service provision and are likely to come forward to take on the new statutory BSM role.

Our key recommendation for the Home Office is that we would like to see one wider building safety regime being applied to the buildings and places falling under the RRO. We think better fire safety, and wider life safety, would be possible if the principles of the Accountable Person (AP), BSM, safety case, Golden Thread and building safety certificate would be applied to workplaces falling under the scope of the RRO.

Our reasons being that one regime with one regulator, would:

- Provide for a whole building, holistic approach where it would be more difficult for legal requirements to fall between gaps
- Provide greater clarity about what is expected and what best practice looks like
- Having similar competence requirements for the BSM and the Responsible Person would drive a culture change better equipped to provide building and people safety
- Ensure that existing regulatory requirements about building safety provision would be better enforced
- Better ensure the presence of a complete Golden Thread, which is currently often lacking despite information provision already being a legal requirement. This 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.

### **Collated survey responses**

Annex 1 contains responses to specific questions from the Home Office and MHCLG consultations, the content reflects views from our LSWG and additional responses from our own survey of members on the most relevant consultation questions.

In addition, in Appendix 1 you can find the specific concerns relating to Building a Safer Future, which we think cross over to common areas of residential buildings, workplaces and higher risk workplaces. Our comments on the building scope in particular should be read in conjunction with our survey responses found in Annex 1 (attached to the email submission).

### **Further information**

Please do not hesitate to contact me if you have any queries.

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## Appendix 1 – Specific concerns

### Scope of regime

#### a. Material scope

IWFM recommends the material scope of the new regime to cover wider life safety rather than ‘just’ fire and structural safety. Only a wider scope would be able to realise Dame Judith Hackitt’s recommendation that a more holistic view of building safety should be taken.

- The ‘single point of accountability and/or responsibility’ within a ‘whole building’ concept recommended by Dame Judith Hackitt will be significantly undermined with multiple material areas potentially covered by different people.
- The objective of the regime change is to provide residents with safe homes, rather than ‘only’ providing fire and structural safety
- The wider scope would provide a revised framework for building regulations that would provide a holistic, whole building approach, rather than separating out fire and structural safety, continuing a fractured approach with gaps
- A whole building safety scope would transfer the principles of clarity and effectiveness of the CDM Regulation into the complete lifecycle of the building
- A wider scope would reflect the principle that buildings are thought of as complex systems
- Such a wider approach would better deliver and maintain safety and integrity throughout the lifecycle of a building
- Following the above, the scope for the BSM should also be wider and cover wider life and building safety. This would provide the opportunity to remove the fragmentation that surrounds the current delivery of health and safety management (in its widest sense) of buildings.

We understand that existing legislation covering a wide variety of building safety issues will not be made redundant by the introduction of this new regime. Rather it is meant to build on it and also provide greater clarity about accountability, responsibility and outcomes amongst others. As such, it would be a greatly missed opportunity to restrict the scope, rather than making the new regulator responsible for wider life and building safety.

#### b. Building scope

IWFM is of the view that the building safety regime proposed should ultimately move to include all multi-occupied residential buildings, mixed use buildings and workplaces. However, for the regime to succeed, a phased approach to implementation should be outlined.

We have concerns about:

- The regulator’s capabilities – if the initial scope is too big, the new regime and system will not be properly implemented, nor enforced, resulting in no change occurring
- The availability of the right competences within the industry to deliver the regime if the implementation is not phased correctly
- The impact on personal insurance for key functions

For new buildings, the scope of 18m+ could be applied immediately, while allowing more time or start at 30m for existing buildings.

As alluded to above, we agree that the scope should be widened to include ‘higher risk workplaces’, this however covers a great number of buildings. Some sort of objective criteria would need to be applied to prioritise and bring into the regime those with the highest risk. The same logic would apply to ‘mixed-use buildings’, which should be brought within the regime, but a blanket approach would overwhelm the new regulator and regime.

A phased approach is right, with clear timelines for implementation for different building categories so that residents, occupiers and wider industry know what to expect. We consider that more work needs

to be done on the phased implementation approach and the building categories that would fall within based on risk.

### **Building Safety Manager (BSM) and the Accountable Person (AP)**

IWFM very much welcomes the proposals for a new statutory role of BSM. The appointment of a named BSM as per the proposals will be essential to deliver life and building safety. The role is rightly identified as needing enhanced competence, with additional skills, knowledge and experience.

We agree with the proposed functions and competence proposals, however would like to point out that this role should not be limited to fire and structural safety, rather there should be an holistic, whole building systems approach to wider life and building safety. If limiting the BSM function to fire and structural safety, gaps around responsibility will be re-introduced in the regime, contrary to the objective of providing a single point of responsibility for building safety and contact for residents. Examples of this could be water safety or safety of windows.

While we agree with the suitability criteria, it is worthwhile pointing out that there should be explicit scrutiny about the funding and resources available for the BSM to carry out their functions. This scrutiny should not just be applied to the AP, who would appoint and supervise the work of the BSM; it should also be applied explicitly to the organisation that employs them.

We have some concerns about the number of buildings that may fall within the remit of a single BSM. When scrutinising a BSM's suitability criteria, the regulator should satisfy themselves that the volume of buildings meets the funding and resources/team available to a BSM.

Looking at residential management, it is a reality that often it will be an organisation that will be contracted to fulfil the BSM role. The proposals allow for that situation, and they also require a competent BSM within that organisation. Our concern, however, is that the suitability of any such organisation from a funding/resources/team perspective is not explicitly listed as a prerequisite. In WG8 proposals, this organisation is referred to as the Residential Operator Organisation, who would be tested against such suitability criteria and would then be included on a register of suitable organisations.

In addition to the above, we support the wider recommendations made by WG8 of the CSG (IRG). This working group was a collaboration from across the built environment to develop specific competences for the BSM. WG8 should remain closely involved with the development of the BSM national standard for the overarching competence framework, under the auspices of the Building Safety Competence Committee. We also agree that the BSM should be a registered, certified person, which can only be included on the register after meeting the competence criteria set out in the to be developed national standard (which in turn should be based on the work already carried out by WG8).

On the AP, it is expected they will not be competent to make many of the decisions that they will be required to make with the Regulator. Rather, we fully anticipate the BSM being at the beck and call of the AP to enable them to make the right decisions.

### **Residents**

IWFM supports the proposals made about residency engagement and welcomes the clarity about responsibilities, many of which will fall within the remit of the BSM.

We support the information provisions made and are hopeful they achieve greater transparency about the essential role all stakeholders play towards building safety.

Every resident deserves a safe home and the BSM will work with people to improve building safety, increase trust and accountability. To help support this we consider it essential for government to take on a greater role through a full life safety public broadcast behavioural change campaign. Opportunity lies in driving a new norm and empowering occupiers to achieve safety for them and fellow occupiers by way of uniform and consistent messaging across the country.

## **Access**

While welcoming the proposals for residents to cooperate with the AP and/or BSM, we remain concerned they are still not sufficient to gain prompt 'appropriate and proportionate' access to units belonging to a minority of people that are unwilling to cooperate. The current route of redress is lengthy and insufficient for emergency situations. A more enhanced statutory right of 'appropriate and proportionate' access would still be welcomed, any such right would of course need to have the right regulatory checks and balances in place.

## **Golden Thread/safety case**

IWFM supports the proposals around the golden thread and the safety case. We would, however, strongly recommend the scope being widened to include wider life and building safety information to achieve true building safety across a whole building and for the full lifecycle of the building.

As acknowledged, the responsibility to keep the safety case file updated will fall to the BSM as they will be competent to understand what information is required to be compliant and to ensure life and building safety. Necessary building information, although already a statutory requirement for many areas, is often lacking. The availability of the correct, up to date building information will be critical to enable the BSM to execute their function. The structure of the safety case should be mandated, to make it easier for all to compare information. This still allows for an outcomes-based approach.

While we agree with **a key data set**, we think the set needs to be expanded to include other life safety related information such as location of lifts, certain product information, safety management strategy and systems, including any emergency plans in place.

The wider 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.

A non-exhaustive list of what should be included in the safety case file can be found in WG8's full report (attached).

In addition to the above, and the recommendations made by WG8, to ensure that documentation is as complete as possible upon commencement of the occupation phase, it is opportune to have the BSM in position before the official handover of the building. For existing buildings, the same quality of information should be attained as currently it is often absent or fragmented.

## **Regulator**

We agree with the functions of the regulator at national level and consider that the regulator needs to be given sufficient time through the phased implementation approach to allow the new regime to be bedded in.

We support the national approach as we believe only this will provide much needed uniformity in guidance, implementation, compliance and enforcement, which in turn will reinforce the greater clarity on what needs to be done and who is accountable and/or responsible.

To deliver wider life and building safety, the regulator's composition could take the format of a joint competent authority, in addition to their obligation to cooperate with other relevant regulators and enforcement bodies.

The multitude of regulators operating in this area is causing confusion, rather than clarity, for both operators and residents. This regime overhaul could provide the opportunity to streamline some of the processes and functionality. To aid this, the regulator also needs to provide guidance to industry



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on what their role is, how any of their schemes are to be implemented and what the requirements for compliance are, to allow industry to develop their response and ensure that members are compliant.

## **Conclusion**

IWFM welcomes the initial proposals on the new regime, including the new statutory role of the BSM. Providing safe homes for residents and delivering safe buildings will only be achieved by taking a holistic whole building and lifecycle approach towards wider building safety. Our strong recommendation would therefore be to expand the material scope, alongside (in due course) working towards one building safety regime for both residential and commercial buildings.

We look forward to continuing to feed into Government policy development and to further cooperate on the advancement of an appropriate competence standard for the 'Building Safety Manager'.

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