



Safer buildings in Wales

Consultation Response Form

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IWFM response

The Institute of Workplace and Facilities Management (IWFM) welcomes the opportunity to comment on the Welsh Government's consultation - *Safer Buildings in Wales*.

IWFM is the professional body for workplace and facilities professionals. We exist to promote excellence among a worldwide community of around 14,000 and to demonstrate the value and contribution of workplace and facilities management (FM) more widely. We empower and enable professionals to upskill and reach their full potential for a rewarding, impactful career.

We do this by advancing professional standards, offering guidance and training, developing new insights and sharing best practice. As the pioneering workplace and facilities management body, our vision is to drive change for the future, to be the trusted voice of a distinct profession recognised, beyond the built environment, for its ability to enable people to transform organisations and their performance.

The IWFM was established in 2018. It builds on the proud heritage of 25 years as the British Institute of Facilities Management.

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, airports, schools, shopping centres and businesses of all kinds. By integrating people, place and process across the built environment, our professionals' purpose is improving the performance and quality of life of people and the productivity of the core business¹. By making these workplaces as efficient as possible, our members have a major role to play in making the UK a more productive and sustainable place².

Our members' 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 such as catering, cleaning, building maintenance, environmental services, security and reception.

¹ ISO 41011:2017(E)

² An effective workplace can improve productivity by 1-3.5%, potentially delivering a £20 billion uplift to the UK economy, The Stoddart Review – The Workplace Advantage, (December 2016), Raconteur, 42p.

As the professional body for the FM profession, IWFM is engaged in the ongoing debate around improving building safety and enabling safer homes for people and have strengthened our focus on building safety since the Grenfell tragedy in June 2017. Our work in this area is supported by our own expert working group – the [Life Safety Working Group](#).

To date we have played a major role in driving the development of competence criteria for the proposed new statutory role of Building Safety Manager (BSM) by way of providing the secretariat for Working Group 8 (WG8). WG8 has been working on the competence framework under the auspices of the Competence Steering Group (CSG), a sub-group of the Industry Response Group (IRG). The CSG has been coordinating industry's response to the competence challenge set by Dame Judith Hackitt in her report: '*Building a safer Future: Independent Review of Building Regulations and Fire Safety: Final Report*'³. The CSG full report on competence '*Setting the Bar*', including the WG8 report⁴, was published in October 2020 and we were pleased to see it being referenced in the consultation document.

General Comments

IWFM welcomes the Welsh Government's consultation *Safer Buildings in Wales* and the opportunity for us to engage with it.

Since our initial engagement and input into the Dame Judith Hackitt Review, IWFM has identified four key problem areas concerning fire safety in all buildings - not just residential - that are essential to address and to strengthen fire - and wider life - safety when managing buildings. These issues have been our guiding reflections over the past four years. While they have been nuanced in response to different policy strands developed, it is worthwhile looking at the key issues encountered as the starting point of our considerations and to remind us of what we want to tackle and where to raise standards.

These key issues for FM are:

1. The standard of fire risk assessments carried out is often very poor and often lacks a suitable remedial plan.
2. The Responsible Person role (as per the Regulatory Reform (Fire Safety) Order 2005) is not well defined and consequently the Responsible Person often lacks an understanding of the role, as well as the importance of fire risk assessments and how they should be followed up. This reflects badly on standards of competence and has been enabled by a lack of enforcement of the requirements in place. The role of the Fire Safety Order (FSO) in residential buildings is confusing and the overlap with other legislation causes gaps to arise in building safety, especially as those working in building management are often underqualified for the roles they have to assume.
3. A building's documentation is often poor, incomplete and dispersed, which means that management decisions are based on poor evidence, resulting in poor decisions. A Golden Thread legal duty should be established for buildings so that there is uniformity around expectations of what should be delivered. This will also allow upskilling to take place and in general raise expectations of what documentation should be available, and its quality, accuracy and importance.
4. There is a general lack of enforcement of compliance across the board, which means that, even in the best of circumstances, there is little incentive to do much more than basic legal compliance. It should be made clear that enforcement will be a key arm of

³ Building a safer Future: Independent Review of Building Regulations and Fire Safety: Final Report, Dame Judith Hackitt, May 2018, 159p.

⁴ [Safer people, safer homes: Building Safety Management](#)

any future building safety policy, with sufficient financial commitment from Government to ensure that enforcement is seen as a certain, rather than a gamble worth taking.

Tackling these elements **together with driving individual competence and organisational capability** are key to delivering genuine and thorough building safety and safe homes for residents.

Specific points to raise on the white paper proposals

One building safety regime for all multi-occupied residential buildings

We welcome this move to apply one building safety regime for all buildings, with clear requirements being escalated in balance with the risk.

We welcome the disapplication of the FSO in dwellings falling within the scope of the building safety regime, as this provides clarity on the one regime that should be applied uniformly within the residential parts of a building. However, for mixed use buildings two distinct regimes remain in place; this continues to enable potential gaps to arise between different accountable persons (APs) and responsible persons (RPs). We have two recommendations in this area:

1. There should be a clear lead AP, responsible for both regimes
2. The concept of 'whole building safety' should be strengthened, with the strictest regime present in the building assuming whole building safety (see below)

On the issue of FSO application, it would be opportune to extend the application of the FSO to those dwellings above high-risk commercial premises which would fall outside the scope of the building safety regime, so that the commercial premise is clearly responsible for fire safety of the dwelling above, irrespective of whether staff of the commercial premise or 'independent' residents live there.

We think that, in due course, the scope of the building safety regime should be extended to include multi-occupancy residential buildings such as hospitals, care homes, prisons and hotels. Despite these places also being workplaces, and therefore the FSO is applicable, the sleeping risk - often the lack of knowledge of the buildings because of their use - justifies putting heightened requirements in place, including those relating to resident engagement, covering the whole lifecycle of those buildings.

Material scope – fire and structural and whole building safety

The scope of the legislation appears to cover fire and structural safety, as in England. IWFM has been an advocate for the new building safety regime to truly deliver a holistic 'whole systems and life safety' approach, meaning the regime's scope should be extended beyond fire and structural safety.

Wider life safety duties exist in other legislation. Not bringing these duties together in one overarching act is a missed opportunity to simplify the application of life safety in buildings.

In addition to the above, the concept of 'whole building' isn't fully clear in the context of the consultation and what this means with regards to the duties. We take note that there should only be one single and clearly identifiable Accountable Person, but this doesn't necessarily equate to the whole building being covered. We also take note of the reference to the concept in Question 39 (mixed use buildings) calling for suggestions on how you would enable the RP and the AP to work together to support and ensure fire safety of the whole building. We would like to see an inclusion of a definition in legislation and that whole building holistic safety for residents is the key outcome to achieve. This will impact on duties

in that the AP/BSM will need to take considerations on board that go beyond their remit of control of the building.

Our reasoning being:

- 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, which would be 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 extended to 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.

Golden Thread

We welcome the proposals on the Golden Thread, but consider that the key data set and information duties should be expanded for every building, including - but not limited to - 'as built' plans, manuals, operation and maintenance manuals, logbooks of activity and competent people performing inspections etc. Other life safety related information should be included such as location of lifts, 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 records, full plans (as built), control plans, Health and Safety File, Fire and Emergency File (the actual file, not just a reference to it), 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.

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.

Accountable person and licensed BSM

We welcome the requirement for a single and clearly identified AP and for an additional dutyholder in the occupation phase - the BSM. We fully support the fact that the AP remains legally accountable, while the BSM will support the delivery of the duties in occupation.

Through our engagement with WG8, we have also called for licensing of BSMs to ensure only validated competent BSMs work on higher risk buildings. Since then, we have been working with MHCLG on the concept of certified competent people, through the application

of the forthcoming BSM PAS and ensuring that the new Building Safety Alliance helps drive culture change and competence.

The rationale for licensed BSMs, which remains valid, is that culture change lies with competent individuals. Unless there is a strong demand for validated competence, through requiring licensing or certification for meeting PAS standards, there is little incentive for organisations and individuals to assure competence or to upskill where there are gaps. The strongest possible signal that only competent people/BSMs should be working on Category 1 buildings, is to explicitly demand that they are licenced in legislation. In addition to this, we also consider the need for a central register of competent BSMs so that both AP and residents can assure themselves of who is competent to carry out the responsibilities.

The consultation makes it clear that the BSM role could be fulfilled both by an organisation and an individual. In cases where an organisation is appointed as BSM, the licensing requirement should include that the BSM organisation must appoint a nominated individual who meets the competence criteria for the individual BSM. Without such core level of competence required within a single person, the holistic whole building safety outcome is likely to be lost as gaps would start to appear.

We are concerned, however, about the lack of clarity around what the conditions are for the AP to opt out of the appointment of a BSM. The policy needs to be strengthened and provide clarity that the AP can only opt out when they are a fully licensed and competent BSM themselves. This is currently vague and needs to be remedied so clear requirements, duties and criteria are embedded in the legislation.

We would strongly recommend that the Welsh Government continues its engagement with the Building Safety Alliance and the development of the PAS 8673 (*Built environment - Framework for competence of individual Building Safety Managers*) so that competence requirements are consistent across England and Wales, ensuring consistent delivery of safe homes for residents and driving standards overall.

Access

As per paragraph 7.8.14 of the consultation document, the main risks lie generally within the flats themselves. While the consultation acknowledges that the AP/BSM could not be expected to mitigate fire risks in individual dwellings (and consequently they are excluded from the regime), this results in a big gap in risk mitigation for a building in scope of the regime.

We welcome the inclusion of residents to the general duty to maintain compartmentation and, in particular, welcome the enhanced duty for cooperation with the AP/BSM. We question, however, whether the exclusion of individual dwellings, while at the same time expecting a duty of cooperation, will impact the relationship with the resident and AP. This appears to be mixed messaging and we would welcome greater clarification in this area. If individual premises are not covered by the regime, are we back to the challenges presented by the FSO? We don't think that is the case, as the mitigation measures outlined under the fire prevention risk area is exactly what we would expect to see, and we agree with them. Should it just not be made clear that the individual dwellings are included in the building regime, but the fire prevention duties are limited to what is outlined in that section anyway, both towards residents and the AP/BSM?

We agree with the suggestion that the AP/BSM should take actions to raise awareness of the risk of domestic fires. We see this as part of their duties in both Category 1 and Category 2 buildings, and this being complemented by the residents' duty to cooperate.

It is right that residents are being involved in the safety of their homes and buildings and their voice should be assured. We welcome the relevant requirements for the AP and BSM for a resident engagement strategy and to actively manage complaints and concerns of

residents. An appropriate escalation route to the regulator will be an important feature of affirming their voice is being heard.

Conclusion

Every resident deserves a safe home and the BSM will work with stakeholders to improve building safety and 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 for both those that manage buildings and those that live within them, and empowering occupiers to achieve safety for themselves and fellow occupiers by way of uniform and consistent messaging across the country. We would suggest that the Devolved Nations work closely together in this area, to deliver the uniform and consistent messaging needed.

Thank you again for the opportunity to feedback on these proposals. We would be keen to continue to support the building safety policy and are available to the Welsh Government team should it wish to follow up with us.

In addition, we would strongly encourage the Welsh Government to continue to liaise with the Building Safety Alliance, the effective implementation group for the WG8 recommendations for the BSM and its operating environment.

Please find our responses to specific questions in Appendix 1.

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Appendix 1 – consultation questions and answers

Q 1. Do you agree that the Building Safety Regime in Wales should apply to all multi-occupied residential buildings with two or more dwellings? Please support your view. and Q 2. Do you agree that there should be two 'Risk Categories' for the Building Safety Regime? Please your views.

We are in broad agreement with these proposals. We agree that the risks to safety are broadly the same regardless of the size of the building, much like the principles of building and fire safety apply across multi-residential buildings. However, the impact of the risks, when left unmanaged or unmitigated, do differ. We also agree that risks to manage also incorporate more than height, including factors such as occupation density, use and resident profile amongst others. As such, the risk profile of buildings should determine requirements applicable. We consider the option of three 'Risk Categories' more appropriate than two, to better allow for the many nuances between building risk profiles and proportionate requirements. Means of escape, in combination with height, could be a determining factor for being placed in category 2 or 3.

Q 3. Do you agree with the proposed scope of Category 1 buildings? Please support your view.

Yes, there is a clear case of proportionality between the requirements and the risk for the building types in this category.

Q 4. Do you agree with the proposed scope of Category 2 buildings? Please support your view.

We believe greater distinction should be made in this category, introducing an additional category as per option B, as the proportionality of requirements can change quite dramatically in this very broad category.

Q 5. Do you agree that licensed HMOs should be included within the scope of the Building Safety Regime?

Yes, licensed HMOs should be included but currently Category 2 is too wide in the different buildings that it covers and the consequent requirements. It should be split out into an Enhanced and Standard category to allow for more appropriate application of requirements.

Q 6. Do you agree with the exemptions as set out at Figure 6? Are there any other categories of building that should be included within the scope of the regime during occupation? Please support views

IWFM have argued the case for the scope to be extended after an appropriate embedding time, to include most of the multi-occupancy residential buildings such as hospitals, care homes, prisons and hotels. This is particularly important because their exclusion would otherwise mean these building categories would not be submitted to the enhanced construction and gateway regime. While the FSO would provide some protection within the occupation phase, we consider it would be beneficial for the buildings mentioned above to be wholly brought into the new building safety regime because of their increased risk profiles.

Q 7. Do you think that any extra measures should be taken as regards single flats above high-risk premises like restaurants and takeaways? Please support your views.

It would be opportune to extend the application of the FSO to those dwellings above high-risk commercial premises, which would fall outside the scope of the building safety regime. This will provide greater clarity that the commercial premise is responsible for fire, and other life, safety of the above flat, irrespective of whether staff of the commercial premise or 'independent' residents live there.

Q 9. Do you agree that a consistent approach with England to the information set out in the Golden Thread and Key dataset is appropriate? If no, please support your views

Yes. Uniformity in this area will drive standardisation and competence, resulting in better informed decisions in building safety management. In addition, property professionals and organisations are likely to work across borders, having distinct regimes would lead to confusion and incorrect application.

Q 10. Do you agree that it is appropriate for all buildings within scope of the Building Safety Regime to provide information in relation to the key dataset? Please support your views.

Yes, often key information is missing. Having a minimum requirement across the board will help improve not just the standard of information kept, but decisions based on information. Key building information should only be updated by appropriately competent people.

Q 13. Do you agree that there should be a named individual identified where the dutyholder is a legal entity? Please support your views.

Yes, without a clearly identifiable person taking up accountability and/or responsibility for building safety, there is unlikely to be a culture shift. IWFM and WG8 have also argued consistently that competence requirements should be linked to those taking up dutyholder roles.

Q 16. To what extent do you agree with the proposed content of a Fire Statement?

We strongly agree with it.

Q 26. Do you agree that for new Category 1 buildings an Accountable Person must be registered before occupation of the building can begin?

Yes, we agree to this in principle. However, for a resident' management company the AP may change a few times in the course of handover from the Landlord to leasehold directors. It is important in that circumstance that clear lines of accountability are held in the process of handover.

Q 27. 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.

We agree that a declaration that the building complies with building regulations should be produced to provide confidence in the occupation phase that the building has been delivered to safe standards. However, we are not sure who would be most appropriate to provide that certificate as the Principal Designer can design a compliant building and the Principal Contractor should then build to the design. Perhaps there is a role for Local Authority Building Control to issue a statement based on a repository of competent people with the necessary skills, knowledge, experience and behaviours, signing off on their specific roles and responsibilities.

Q 30. Do you agree that the Client during Gateway Two (if not continuing in the role as Accountable Person) must hand over building safety information about the final, as built building to the Accountable Person before occupation is permitted?

Yes, it is absolutely essential that the collected building information gets handed over from dutyholder to dutyholder. The AP, and their BSM, cannot manage the building without the correct, accurate and up to date building information. Appropriate sanctions must be put in place for failure to comply with such handover. Consideration should be made that certain key information should only be shared by competent people.

Q 31. Do you agree it is appropriate to allow staged occupation (where previously agreed during Gateway Two) e.g. a mixed use development?? Please support your views

Yes, but only when it is safe to do so.

Q 32. Do you agree that Category 1 buildings undergoing major refurbishment should also be subject to the Gateway approach? Please support your views.

Yes, changes affecting compliance with the Building Regulations must go through the gateway approach to ensure built-in safety. There should be no difference whether the works take place in a developing building or an existing building. Major works should be subject to the gateway approach.

Q 33. Are there any other types of residential building or characteristics of a residential building that should require it to go through the Gateway process? Please support your views.

As per Question 6, we think hospitals, care homes, prisons and hotels should go through the gateway process.

Q 34. We will be undertaking further consultation in this area when we set out regulations. Would you be interested in being added to our stakeholder list in relation to the Design and construction phase? Please provide your details

Yes please, we would be particularly interested in contributing to any further refurbishment policy. Email Sofie.Hooper@iwfm.org.uk

Q 35. Do you agree that there should be a single and clearly identified Accountable Person for all premises covered by the Building Safety Regime?

Yes, there should be a single and clearly identifiable AP.

Q 36. Do you agree with the proposed approach in identifying the Accountable Person? Please support your view.

No, the approach appears to leave a lot of room for different people to step forward to take on the role, meaning that no-one may end up doing that, with the freeholder always resulting in the role, while this may not be appropriate at all.

Q 37. 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.

Right to Manage Companies may have difficulty with the concept. These could be resolved by the appointment of professional directors on Management Companies.

Q 38. Do you agree that the default position should be that the Accountable Person is the freeholder?

No, as the freeholder may have a distant relationship with the building.

Q 39. For mixed-use buildings there will be a 'Responsible Person' under the FSO for the business premises, and an 'Accountable Person' under the Building Safety Regime for residential parts. Are there any requirements we should consider about how these responsible parties should work together to support and ensure fire safety of the whole building?

The best solution would be to have a single AP who assumes responsibility for whole building safety, including assuming the role of the RP under the FSO. Other nations are

assuming a duty to cooperate; however, we fear that such a duty could still lead to potential gaps between the regimes. Given that some of the key duties are very similar, yet there will only be competence criteria for the BSM, it would seem appropriate that the responsibility would fall to the AP and their team, the BSM. IWFM consider that at all times, the most stringent regime and its competent people should take the lead for the whole building to genuinely deliver whole building safety.

Where there is no conflict between building safety regimes, the FSO is applicable and when a residential element is present in the building, we think it is appropriate to extend the scope of the FSO to cover the residential part. The example offered was a commercial unit with a single flat above, we think that the risks can be managed by the FSO in a whole building approach.

Q 40. Do you agree with the proposed duties of the building safety manager for Category 1 buildings? Please support your view.

Overall, we agree with the range of responsibilities for which the BSM should be responsible. However, it is not clear what the explicit statutory duties for the BSM would be. We assume it would be contributing towards and supporting the execution of the list included in paragraph 2.10 in the Executive Summary. Neither it is clear how they would be written into the legislation. While we endorse their responsibilities, it should be made clear that the BSM manages the process and the people who will help deliver the outcomes for which they are responsible should not have to do everything themselves.

Q 41. Do you agree with the proposed division of roles and responsibilities between the Accountable Person and Building Safety Manager?

While the roles and responsibilities appear clear, what isn't clear is how the duties would be written into legislation. It is right that the AP should be accountable at all times, but the BSM should have clear statutory duties for Category 1 buildings too.

In addition, the requirement for only competent BSMs to deliver their role and duties should be clearer. The consultation states that the AP 'may opt to not engage a BSM' and that the AP can carry out the duties themselves. It must be made clear that they can only do this where they are a licenced, and therefore, competent BSM themselves.

Q 42. Is the relationship between the Accountable Person and Building Safety Manager sufficiently clear? Please explain your answer.

No. The expectation is that the BSM is the one person competent to carry out the duties, for which the AP is accountable. Why would the competent person 'take their instructions from' the person who, by definition, isn't competent? While it is right that the AP retains their accountability, and that the BSM should not act without the authority from the AP, it is the BSM that is competent to identify what measures and activity need to be carried out, at the right time, to mitigate and manage the risks.

We fully expect the list of requirements contained in 7.3.5. (apart from the BSM appointment) to be carried out by the BSM, while it should be clear that the AP remains accountable for their completion: this clarity needs to be included in the forthcoming bill.

Q 43. Do you agree that the proposed duties and functions set out in Figure 8 for Accountable Persons for Category 1 buildings are appropriate? Please support your view.

Yes, overall, we agree with the proposed duties and functions set out for the AP. It must be made clear in legislation that it will be the competent and licensed BSM who is expected to manage and deliver the outcomes, while the AP retains accountability. In our view, this means that the AP must ensure that the BSM has sufficient funding to undertake and deliver the duties and responsibilities on behalf of the AP. An AP can only control and provide

funding, if it is legally mandated in the bill, otherwise they will have to rely on permissions in the lease.

Given the wide-ranging areas the duties cover, the BSM role is a manager's role, where they delegate parts of the delivery to other suitably competent people.

Q 44. Do you agree that the proposed duties and functions set out in Figure 8 for Accountable Persons for Category 2 buildings are appropriate? Please support your view.

No, one of the key preconditions of delivering building safety is ensuring one has the right information, including the fire safety strategy, wider fire safety information and 'as built' plans. Table 8 is silent on any of these information sources. In addition, it would be good practice to keep records on the fire safety assessment programme, its implementation, manuals for construction products, maintenance requirements and records, including O&Ms and logbooks. BSI is developing BS8644, which is looking to establish a standard for fire safety information for all buildings.

Q 45. Do you think that the different roles and responsibilities for Category 1 and Category 2 Accountable Persons are sufficiently clear and proportionate?

While the table provides an initial insight to what the different roles and responsibilities might be, greater clarity is needed on how this will be translated in the legislation. Further statutory regulations and guidance is expected to support the legislation as well. The importance of including clearly outlined roles, duties and responsibilities should not be underestimated.

Q 46. Are there any additional duties that should be placed on dutyholders? Please support your views.

An overarching duty to only delegate and contract suitably competent people should be included.

Q 47. Do you agree with our proposed fire safety outcomes? Please support your views.

Yes, we agree with them, but there needs to be absolute clarity about the legal requirements around them, and then the impacts of what that may require to be put in place as remediation measures and what that means for cooperation with residents and access. For example, many type 4 FRAs are being carried out to establish compliance of older buildings with building regulations. Once non-compliances have been uncovered, they obviously have to be remediated. However, who should fund this? What isn't covered in the legislation is much more difficult to recuperate afterwards. Relating this back to the fire safety outcomes, for prevention one needs to understand the fabric of buildings that often don't have the information available, requiring invasive surveys to ascertain if compartmentation or any other safety features have been breached. What should be the most appropriate action in such circumstances from a prevention viewpoint?

Clarity is needed on whether private dwellings are covered by the regime or not (as stated in paragraph 7.8.14), as many of the measures to mitigate the fire safety areas require access to individual dwellings. While the expected mitigation measures and duties on residents are the right ones in our view, this effectively means that the private dwellings within the buildings falling within the scope are de facto covered. It would be helpful, therefore, to explicitly state that, rather than allowing confusion and potential obstruction to fire safety outcomes.

As acknowledged in paragraph 7.8.14, most fires originate in flats; however, gaining access is, rightly, not an easy thing to achieve. This makes a prevention approach very difficult, especially if private dwellings would not be covered by the regime. One mitigation approach suggested in the consultation is to implement a general duty for residents to help maintain

risk areas, systems and products within their home, so that they are unlikely to fail and mitigate any consequent fire risk. We also welcome the specific duties outlined in paragraph 8.3.3.

Q 48. Do you agree with our proposed overall purpose of a fire risk assessment? Please support your views

We agree with the overall purpose of the fire risk assessment and, at the same time, we would advocate a consistent approach towards standards in this area across the Devolved Nations. PAS 79-2:2020 is recognised as the standard for fire risk assessment. Uniformity in standards application will aid their uptake, driving standards.

Q 49. Do you agree with our proposed risk areas? Please support your views

Yes, we agree with them.

Q 50. Do you agree that a fire risk assessments must be reviewed annually, and whenever premises are subject to major works or alterations for all buildings within scope?

Yes, we fully support this provision.

Q 51. Do you agree that only a suitable qualified and experienced fire risk assessors should undertake fire risk assessments for buildings within scope? Please support your views.

Yes. Without such a requirement, fire risk assessments will continue to be carried out by unqualified people who will not pick up on all risks and are not likely to put forward required mitigation measures. The fire risk assessment is a critical tool in maintaining life safety. If the quality cannot be assured, then safe homes are unlikely to be provided. Clear guidance should be provided on what a suitably qualified experienced fire risk assessor looks like, including how they must demonstrate that they are.

Q 52. Do you agree that fire risk assessments must be permanently recorded?

We agree that a fire risk assessment must be recorded, although there is little value in keeping the full record for longer than seven years. We would recommend that once the Regulator has validated the safety case for a building, it is made clear which documents should no longer be kept. This is different from keeping a log that the fire risk assessment has been carried out and all remediation measures have been completed. Such a record could be maintained for longer, if not permanently.

Q 53. Do you have any views about whether Accountable Persons or their employees should be precluded from conducting fire risk assessments themselves?

Having an independent fire risk assessor is desirable, however the expectation is that any suitably qualified fire risk assessor **is** independent. Therefore, we would say that if they are suitably qualified, then that should be allowed.

Q 54. Do you have any views on enforcement or sanctions for non-compliance with regards to the Accountable Person?

Enforcement is always required to ensure there is compliance. That is why it is important that only people with the right competence manage buildings, such as the BSM. The AP, while they are accountable, is unlikely to be competent. It is therefore important that they are supported by competent people who will remind them of their duties. At the same time, the AP should retain accountability, as this will in turn encourage them to ensure that the BSM has all the right resources available. In addition, the suggestion is for the AP to only assume that role after being made aware of their duties. Therefore, sanctions for non-compliance for the AP are appropriate. There are some management models where the AP is very likely to

be a lay person, unless they have delegated the role to the Management Company. But, once again, this underlines the importance of having competent BSMs who should be brought into the picture for non-compliance with their duties, unless they can demonstrate due diligence in trying to put in place a fire risk assessment meeting best practice standards.

Q 55. Do you have any views on enforcement or sanctions for a person undertaking a fire risk assessment without suitable qualifications or experience?

Such fire risk assessment should be invalidated, and an appropriate sanction should be applied to that person.

Q 56. Do you agree with our proposal to create duties with regards to compartmentation on Accountable Persons? Please provide information to support your views.

Yes, but the degree to which the AP will be able to comply with this depends on clarity of the regime's application within those dwellings, the information that can be collected, the degree of collaboration on access and surveys etc. Clarity is necessary so that APs can act within a clear framework and so that the costs are appropriately and proportionally covered.

Q 57. Do you agree with our proposal to create duties with regards to compartmentation on residents? Please provide information to support your views.

Yes, we strongly agree with this proposal, as per our response above, including on Q.56. Without such duties, it would make it difficult for the AP and BSM to act.

Q 58. Do you agree the concept of a Safety Case for Category 1 buildings is an appropriate way to assess and manage the risk of building safety issues?

Yes.

Q 59. What do you believe would be a reasonable timescale for existing Category 1 buildings to create a Safety Case?

This is a challenging question, three years could be a reasonable time, especially for those buildings needing to make a shift from analogue to digital, but really this should be dependent on risk. This is where enforcement bodies could play a role in determining appropriate times for individual buildings.

Q 60. Do you agree there should be a mandatory reporting duty on dutyholders in the occupation phase?

Yes, this will enable a culture change, provided that it is either anonymous or there is immunity from prosecution for the issue raised. However, the consultation only mentions for this duty on the AP (paragraph 7.11.1.): this duty should be explicitly extended to the BSM to ensure clarity.

Q 61. Which incidents/issues do you think should trigger such a duty and why? Please provide examples

Any fire, regulator enforcement notice, structural defect, compartmentation issue, etc. failure should be notified. One could argue that this list should be expanded to include other life safety issues. A list of issues falling under such a duty should be developed and the regulator should be able to amend it at a certain review period so that it remains current and in line with developments and innovations.

Q 62. Should there be a requirement for the Accountable Person to register under the building safety regime during the occupation phase?

Yes, the AP should register the building. Registration should be a pre-condition for occupation, at least for new buildings. This would help assure that someone is identified

before any benefit of the building is received. For existing buildings, of course, this will not be possible and other arrangements should be made. The best way forward is worth exploring with stakeholders as different management arrangements will provide different answers and, while there would be an incentive for certain people to find an AP, they may not be very forthcoming.

Q 63. Are the registration process requirements sufficient? Are there any others that should be included? If so, please outline and explain.

No, we do not think the requirements are sufficient. An AP must clearly identify who will take on the role of the BSM at the registration point so that there is assurance that a competent BSM will manage the building. In addition, we welcome the requirement that the BSM is licensed. It should be established at the registration point that the BSM meets this requirement, before occupation can begin; unless, of course, the AP themselves is or has (in case of the AP being a legal entity) an individual and licensed BSM.

The consultation makes it clear that the BSM role could be fulfilled both by an organisation and an individual. In cases where an organisation is appointed as a BSM, the requirement should include that the BSM organisation must appoint a nominated individual who meets the competence criteria for the individual. Without such core level of required competence within a single person, the holistic whole building safety outcome is likely to be lost as gaps would start to appear.

Q 64. Should there be a requirement for dutyholders (both the Accountable Person and the Building Safety Manager) to obtain a building safety licence in the occupation phase? Please explain your answer.

Yes, we think that both the AP and BSM should be registered, with the BSM in particular needing to demonstrate their competence in terms of skills, knowledge, experience and behaviours.

We do have questions about who would issue the licence, how the BSM would be assessed, and against which criteria. The consultation states alignment is being sought with the UK competence approach, which we welcome. The question of competence is distinct from the question of validation, and even from the question of licensing, and we would seek to support the best possible outcomes.

IWFM, through the Building Safety Alliance, is working on solutions in this area to drive the best possible standards. In particular, we are working on certification of future BSMs, against the PAS competence requirements. Perhaps such certification could be one of the requirements leading to licensing.

Q 65. Are there any other requirements that should form part of the licensing process for Accountable Persons in addition to completion of basic training about the building safety regime and the fit and proper persons test (Category 1 buildings only)?

No, we are satisfied with the criteria as they should create the space for the BSM to carry out their role in the best possible manner.

Q 66. Should there be a competence requirement and/or minimum qualifications for those managing Category 2 buildings? If so what criteria should those engaging in such services meet?

Yes, minimum requirements for competence will provide an incentive to drive competence in the management sector. Level 4 appears to be an appropriate minimum standard, or alternatively, member or certified status of a professional body.

Q 67. Do you agree that there should be regulation of all residential property management? Please support your views.

Yes, regulation of all residential property management would be desirable. At the moment, only those interested in best practice will upskill and maintain their competence. Having regulation in place would drive an uplift in competence levels.

IWFM have professional standards in place, but participation towards achieving them is wholly voluntary, unless where the standards are acknowledged by those employers who tend to support staff in their upskilling.

Q 69. How could the issues of probity and responsibility be evidenced in such a system? Please support your views

Issues of probity and responsibility could be evidenced by a logbook/portfolio kept by the person wanting to prove them, countersigned by a responsible director in the workplace. They would then be assessed by an officer or likewise of a certifying organisation or licensing team, who can also challenge and test the statements made in the logbook.

Having a resident complaints system in place would also allow issues to be raised against people, who can refer back to the information in logbooks, etc.

Q 70. Do you agree that all Accountable Persons should be required to promote building safety (as set out at para 8.2.4)? Please support your views.

Yes

Q 71. Do you agree that this information should be provided in a way that is accessible and understandable, and should where relevant reflect the specific needs of residents? Please support your views.

Yes, but it may not be feasible to make everything available in paper form. Elements in paragraph 8.2.4 should be made available in physical format; any additional formats and information, version in other languages, etc should be available in digital format and could perhaps be made available on request in specific circumstances.

Q 72. Do you agree that a nominated person who is a non-resident would be able to request information on behalf of a resident who lives there? If yes who do believe that nominated person should be? (Relative, carer, person with lasting power of attorney, other

Yes, we agree with the principle of sharing information with a nominated person. The definitions around 'resident' need to be sharpened, as not all tenants may be identifiable to the AP. Since not all residents are clearly identifiable, the system could potentially be open to abuse. Further consideration needs to be given on how this could be operated in a safe manner.

Q 73. Is there any other information that an Accountable Person should be required to provide on request? Please provide information on the two different categories of building if relevant.

No.

Q 74. Do you agree that for Category 1 buildings the Accountable Person must provide the information as set out at para 8.2.10? Please support your views.

Yes, the list appears to be appropriate, and will be helpful in creating a minimum standard across the board for resident engagement strategies.

Q 77. Do you agree that there should be a new requirement on all residents of buildings within scope to co-operate with the Accountable Person (and their appointed representative) to allow them to fulfil their duties under the Building Safety Regime? Please support your views.

Yes, as per our responses in questions above, it will be impossible to deliver fire safety outcomes, and meet duties set out in occupation for the AP/BSM, without the cooperation and involvement from residents.

Q 78. Do you think there should be any specific requirements to facilitate this? Please support your views.

The consultation already covers most of the requirements, including those covered by 8.3.3. What isn't included is a possible route for quick escalation through the courts where access is being denied for no clear reason.

Q 79. What safeguards should be put in place to protect residents' rights in relation to this requirement? Please support your views.

We want to stress that access to residents' homes should only be used for fulfilling duties in relation to building safety. Right to access should be a proportionate right balanced against the right to privacy. An AP will not be able to enter a flat or enforce any action unless the resident agrees, or the matter is enforced by the courts.

Q 80. Do you agree that there should be a new requirement on all residents of buildings within scope not to knowingly breach compartmentation? Please support your views.

Yes, this is an important duty.

Q 81. Do you agree that there should be a single process for escalating concerns to the regulator in relation to the Building Safety Regime, regardless of the Category of building or where it is in the building lifecycle? Please support your views.

Yes, clarity and transparency of next steps is indeed key, not just for ease of complaint, but also for trust in the system.

Q 82. Should a similar model be established to allow leaseholders to apply for a change/ removal of a Building Safety Managers? What would be an appropriate mechanism to do this? Please support your views.

An application to the Regulator would be an appropriate route, this could be built into the complaints route for residents.

Q 83. What roles and responsibilities are appropriate for Accountable Persons with regards to people who cannot safely self-evacuate? Please support your views.

An AP should be required to:

- make residents aware that they can communicate via them to the Fire and Rescue services where they will have difficulty self-evacuating and will need assistance from the Fire Rescue services
- communicate such information to the Fire and Rescue services, and
- include such information in a secure premises information box.

Q 84. Should Accountable Persons be required to collate details of all those who would require assistance?

We remain undecided on this as we can see impacts on both sides. It may not be possible for the AP to collect all the details of those who would require assistance, therefore it is important that the AP/BSM raises awareness of the importance of obtaining this information through the resident engagement strategy. The steps outlined in question 83 should, however, be part of the duty.

Q 85. Should Accountable Persons be required to provide this information immediately to the FRS in the event that an evacuation was necessary?

'Immediately' needs to be explained as this may not be possible. Most buildings do not have permanent staff on the premises. Doing so to fulfil this requirement appears unreasonable and disproportionate.

Q 86. Should this be the case for all Categories of buildings? Please support your views

Q 87. Do you agree that Welsh Government should pursue a means to protect workers from raising concerns with regards to building safety? Please support your views.

Yes, we believe this can be done through the mandatory reporting scheme and extending any of the associated protections.

Q 88. Are there any actions that could be taken ahead of legislative reform that would support Local Authorities and the Fire and Rescue Authorities to manage multi-occupied residential buildings in a more holistic way?

Yes. Provide authoritative legal advice on who is deemed to be the Responsible Person in blocks of flats. This will ensure that those who have duties understand that they have duties, and that the applicable regime may change in future, providing greater clarity and preparation of what may come.

Q 89. Do you agree with the list of key functions for the regulator as proposed?

Yes.

Q 91. Do you think that some of these functions are more essential than others? Please explain your answer.

We consider that the different functions of the regulator are complementary.

Q 92. In your view, do any of the regulatory model options outlined provide a preferred approach to regulating the regime in occupation

IWFM prefers a single national regulator to provide a consistent and uniform approach that sets expectations around standards and the enforcement for failure to be expected. In addition, a single regulator gives greater clarity on its authority and provides less opportunity for gaps in the enforcement.

Q 93. Are there other regulatory models that are not presented here that we should consider? Please set out any alternatives.

No.

Q 94. Do you think a local, regional or national approach to regulation would be appropriate? Please explain your answer, highlighting any positives and negatives you identify.

We strongly advocate a national approach to regulation, and its application and enforcement, so there is clarity on what to expect. In turn, this helps drive standards and best practice.

Q 95. Do you agree that there should be a framework for escalating enforcement and sanctions? Please support your views.

Yes, there should be a framework for escalating enforcement and sanctions, with appropriate check and balances, including potential appeal routes.

Q 96. Do the levels set out at Figure 13 sufficiently reflect these levels? Please support your views.

Yes, they do. They would also give sufficient discretion for the regulator to understand the circumstances and outline an appropriate response to the non-compliance in question.

Q 98. Do you agree that access rights should also be provided to the Fire and Rescue Authorities, along similar lines to those available to Environment Health Officers in relation to their powers under the HHSRS? Please support your views.

Yes, certain dutyholder duties can only be fulfilled through access to the private dwelling. Where people carry responsibility for the management of elements of the building that can only be accessed via the private dwelling, it is essential that fire and rescue authorities have access rights along similar lines to those available to Environmental Health Officers in relation to their powers under the HHSRS.

Q 99. What safeguards should be put in place to protect residents' rights in relation providing access to their properties? Please support your views.

See above, question 79.

Q 100. Do you agree with the proposal to establish a Joint Inspection Team as outlined?

We agree, subject to members of the inspection team having appropriate skills, knowledge, experience and behaviours to undertake their role and clear guidance being available on the standards expected to ensure a consistent approach. Any standards used by the JIT must be made available to dutyholders.

Q 101. Do you agree that the Joint Inspection Team's scope should be limited to Category 1 buildings initially with potential to expand? Please support your views.

We believe that the scope should be based upon risk rather than building type.

Q 102. Do you agree with the proposed composition of the Joint Inspection Team?

Yes, subject to the comments made in Q100

Q 104. Do you agree that Welsh Government should pursue requirements around additional fire alarm systems as outlined above that would apply to all residential dwellings? Please support your views.

Mandating mains-powered fire alarms in all private dwellings would appear to be statistically the most effective way of reducing deaths from fire and, compared with the other costs to residents arising out of these proposals, would be relatively inexpensive to implement. We strongly endorse this proposal.