

Briefing

RICS response to the Building Safety Regime White Paper

Committee briefing for the Senedd Cymru Equality, Local Government and Communities
Committee

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For and on behalf of the Royal Institution of Chartered Surveyors (RICS)



Introduction

As a globally recognised professional body, with over 1800 members in Wales, everything the Royal Institution of Chartered Surveyors (RICS) does is designed to effect positive change in the built and natural environments. RICS is one of the largest and most respected organisations globally for advising on building safety matters.

Through our respected global standards, leading professional progression and our trusted data and insight, we promote and enforce the highest professional standards in the development and management of land, real estate, construction, and infrastructure.

RICS has been a force for positive change in recent years when it comes to building safety, particularly concerning fire safety. We continue to work with governments to address the challenges of combustible cladding, are training and upskilling professionals in fire safety and recently spearheaded a global coalition of experts to develop the UN-supported International Fire Safety Standard.

About the author

I work in Building Control and for 44 years (38 in Wales) I have worked in 6 different Building Control Bodies - 2 Local Authorities in Wales, 2 in England and 2 Approved Inspectors. With the Approved Inspectors I have worked on projects mainly in Wales but also across the UK. I managed a team of 14 BCO's in Cardiff and was the Building Control Officer on the Senedd building.

I have been involved with Welsh Government on BRAC Wales and was instrumental in developing the Sprinkler Regulations. I have worked with MHCLG/DCLG, Cabinet Office and the RICS in developing legislation and guidance. I am a lecturer and provider of CPD in Building Legislation and Guidance and have worked with the RICS, RIBA, Cardiff University School of Architecture, and many other organisations. I am a member of the RICS and the Institute of Fire Engineers.

General comments

Clearly, Wales has a strong agenda of safety as proved with the introduction of sprinklers in housing standards. This ground-breaking law is a major step to saving lives. While the outcomes of the Grenfell Tower Inquiry are the catalyst for further change, the response must not be limited to the outcome of the Hackitt report and we welcome the positive and enhanced approach to fire safety that WG is proposing.

While the scale of the problem is different to England, Wales only having 150 residential buildings over 18m is still placing many thousands of people at risk. Every flat occupier deserves safety and your commendable tenant involvement strategy will demand answers to the policies if they are wanting in any way.

The title and role of the Building Safety regime need to be clearly defined and justified. Is it only dealing with fire? The Building Regulations deal with many other aspects of safety. The system needs clarity and clear references / empowering guides and legislation. If the brief is safer buildings – this is a very wide remit.

Scope of the regime

This enhanced approach to fire safety should apply to other buildings. As the Building Inspector for the Senedd, I spent many hours dealing with the very high fire safety standards. When I approved the plans and issued the Certification, fire safety was one of my prime considerations.

I also was the safety officer of Cardiff Arms Park and my team approved the Fire Safety Strategy of the then Millennium Stadium with the safety of 74,500 people at stake. Perhaps the Building Safety Regime should have some involvement in commercial buildings with more than 5 staff (this is the criteria under the RRO (Regulatory Reform (Fire Safety) Order 2005) for having a written Fire Risk Assessment.

The system could be tiered and developed to match the risk, but we are sure that schools, hospitals, pubs, shops etc, which could have thousands of occupants, deserve this level of safety.

Many members within the RICS are challenging the use of the 18m height value (your Category 1 proviso). It derives from the Hackitt report which was only initially considering the single Grenfell event and is not evidenced in any way as to why it should be different above and

below this figure. We have concerns with this principle as it ignores the key element of risk. While the defining Category 1 buildings mirror England it is evident that it is a much bigger problem and includes many other buildings. It is commendable that Wales is proposing a wider brief and we concur entirely with the two or more dwellings criteria. We would, however, question the Category 1 criteria as it is too narrow. I approved a 4-storey care home with 200 occupants in Cardiff – this has far more fire safety issues than a simple 18m high block of flats and yet would fall outside the higher standard of this regime.

The further breakdown of 2 or 3 tiers of building risk is complex as it requires a clear and consistent assessment of that risk. You propose Low/Medium/High and we would recommend that this is formally decided. It should have strict, defined criteria with possibly each building designated a category by a regulator bearing in mind the complexity, risk, height, occupancy and building age at the very minimum. It should not be allowed to be the owners/designers to decide on this.

The development of a lifetime management programme is a vital and correct sentiment but is our biggest challenge. Building management and maintenance is notoriously unreliable, sometimes unavailable and difficult to ensure long term. This alone will require a culture change - for instance your commendable laws to mandate sprinklers – maintenance and occupier involvement is crucial and maybe something needing penalties and severe consequences if it is to be relied upon. The four parties BCO/Fire officer/Housing officer will need to work together with the owner and BSM/AP/RP stakeholders to deliver this.

Information

While newer buildings will have a head start in compliance and information, older buildings will need a review, creation of information and analysis of current position and remedial measures to bring it up to a safe standard. This is a vast amount of work with limited resources of both competent persons and finance. The information will also need to be located in a reliable (and we would suggest publicly accessible) place. It will be a vital and key reference for regulators, managers, tenants, and auditors. It must be said that in very large projects the collation of documents and information is often months after occupation. We agree with the Stop notices/stages as this will force the compliance and information process.

Staff

I would recommend that the WG opts for the single regulator approach using the current Local Authorities and Fire Services. The HSE / English system proposed is another tier of complexity, having a narrow brief and is confusing for the industry. The English system will require an appreciable number of additional officers to deliver and manage.

The pool of available competent persons is limited. Building Control staffing levels are in crisis – there are no courses in Wales to get qualified (BCO's in South Wales have to go to Bristol & elsewhere to get qualified), most staff are over 50 and there is a severe shortfall. To siphon off what would need to be very experienced and expert officers out of the mainstream Building Control teams would be catastrophic (this is a major fault of the English system).

Building Control / Fire Officer competency

I would recommend you audit the 22 LA's and the 3 fire services to understand what WG and the Regulators can deliver. A formal register is required to manage competency and this will allow the correct function of the checking process. Creating a new regime will rely on the resources you already have. Linked to this is, of course, training. Bearing in mind the resourcing problem of competent people in the existing and new roles, training will be a key issue.

New roles

The delivery of the new roles of AP/BSM along with the existing (but often lacking) Responsible Person under the RRO is essential. These roles, however, are complex, responsible and onerous. They will require competency, remuneration, likely PI insurance cover, and a capacity to be able to do each of these challenging roles.

Gateway 1

The link for fire consultation at Planning stage is not straightforward. Planning officers are unable to check Building Regulations. The consultation process also appears to only propose a Building Regulation check of limited fire safety matters dealing with Fire Brigade access/facilities such as water or firefighting stairs. This would not check the wider fire safety matters in Regulations B1 – 4 which covers means of escape, fire resistance, compartmentation, fire doors, cladding etc.

As a practicing BCO, we often get passed planning applications which do not comply with many of the fire regulations. The building regulation application is often months, sometimes years after the Planning application. In the majority of cases, the design and details of the fire safety issues have not been resolved or sometimes even considered as the only brief is to sort out the appearance of the building to comply with Planning policy.

The bigger the scheme, the more of a challenge this is. There is also the complexity of 'Design and Build' meaning the general appearance and concept is approved under Planning then passed to the Contractor/Developer to complete the detail design including all fire safety matters. This only happening after Planning is to ensure the certainty of the project. To fix this element is therefore a further culture change in the design process. We would recommend that the whole requirement of fire safety is considered at the Planning stage by consulting the regulator.

Gateway 2

We agree that all the information must be available before work commences on site. Currently, especially on larger schemes, this is not the case.

Gateway 3

The occupation gateway appears to be building control sign off. This is completely for the Building Control role. It has no current requirement or function in controlling occupation. There are no mechanisms to prevent occupation.

There is also the common problem of part sign off to allow some parts to be occupied and work on an existing building where the building is still in use. It would however be a great asset to make this a controlling factor and formally prevent building use until all safety measures are in place.

Building Regulation changes

The main changes so far have been to prevent combustible cladding. This is not the only problem. The Stay-Put design philosophy is flawed - poor compartmentation, fire doors, fire resistance, openings on an elevation, fire alarms, ventilation of stairs and some other issues have been exposed by the Grenfell evidence as needing review and improvements.

While the Grenfell inquiry is not proposed to finish until 2023, we evidently cannot wait that long. We would recommend a review by your Building Safety Expert Group to resolve these necessary changes before a system with flawed guidance is created. It would be prudent and beneficial to have the standard set at the start of the regime and have minimal changes ongoing.

Proposed enhanced approaches

We agree with the promotion of Fire detection & alarm systems and compartmentation awareness as a key factor. It should be a part of a general education/awareness/policy of considering how fire safety works.

Building Safety Expert Group

They should identify the Regulation changes and the Building Categories – develop the roles and competencies and be a proactive driving force for updating, correcting and creating new guidance and laws to make buildings safe. It should have a role more proactive than the current Building Regulations Advisory Committee to interpret, propose and champion improved regulations.

Fire Officers

The three fire services in Wales have fire safety teams. These deal with the administration of consultations and generally are office-based. They have additional training but in recent years there has been a loss of the more experienced officers and teams have become smaller.

Over 35 years ago they used to outline on the plans what fire safety matters they required but today and since 1985 they are only advised on what the Building Inspector is about to approve. There is technically no need for “agreement” or debate on what is necessary to comply with the

Building Regulations – this is the role of the BCO. This is more a process to advise the Fire Service on what they need to commence the RRO obligations when the building is occupied.

The Fire Officers should not get involved with compartmentation, alarms, fire escape design, fire doors etc. If WG proposes an enhanced role for them to be more involved in the design process it will require system change, more resources, training and improved competency.

Change is slow in legislation. It is over three years since Grenfell and we think all would agree that progress is poor. To respond now, we would firstly develop, reinforce and enhance the Regulatory Reform Order process.

This legislation is already in place and should already be happening. It is a serious shortfall of the existing system and building stock. It could be relatively easy to have a register, Responsible Person, and check to see if risk assessments and inspections have been carried out. It could be enhanced by monitoring by Building Safety Expert Team (Building Control/Fire Engineer or Fire Officer).

It should be audited, publicised and made a public record for the tenant involvement and awareness of the key safety matters in every in-scope building. This is a relatively short term and achievable goal which will prove the state of the extent of the issues and hopefully result in improved fire safety.