

MAYOR AND CABINET		
Report Title	Response to Overview and Scrutiny Committee – Building Regulations and the Review of the Regulatory System by Dame Judith Hackitt	
Key Decision	No	Item No
Ward	All	
Contributors	Executive Director for Resources & Regeneration	
Class	Part 1	Date 6 June 2018

1. Purpose of paper

1.1. At its meeting on 22 January 2018, the Overview and Scrutiny Committee asked Officers questions regarding the current building regulations and control process and in relation to the interim report arising from Dame Judith Hackitt's Independent Review of Building Regulations and Fire Safety. This cover report outlines how applications under the building regulations system are assessed at present, the findings from both the interim and final report from Dame Judith Hackitt, and how the Council's current building control systems fit with those findings where appropriate.

1.2. This paper sets out the response to the referral.

2. Recommendations

2.1. It is recommended that Mayor and Cabinet agrees the responses laid out below in response to the queries raised by the Overview and Scrutiny Committee.

3. Referral from the Overview & Scrutiny Committee

3.1 At its meeting on 22 January 2018, the Committee noted the report presented by Officers and heard verbal updates from the Chairs of the Housing and Sustainable Development Select Committees on the scrutiny those committees had carried out in relation to fire safety.

3.2 The Committee resolved to refer the interim report arising from Dame Judith Hackitt's Independent Review of Building Regulations and Fire Safety to Mayor and Cabinet and ask that any changes necessary to ensure that

Lewisham residents' concerns about fire safety are addressed in an adequate and clear way, are made to the Council's current building control systems.

4. Council responsibilities as part of building control

- 4.1. It is the responsibility of the developer, in conjunction with their chosen Building Control Body (local authority or Approved Inspector), to demonstrate that the building regulations have been satisfied.
- 4.2. Regulations cover a wide variety of items within the building such as the structural and fire safety, energy efficiency, drainage, accessibility, ventilation, amongst other things.
- 4.3. Due to the highly complex nature of developments, there is no standardised 'checklist' of building control activities. However, Officers have set out below the stages, and procedure, the Council's Building Control service follow when providing Building Regulations approval on a development/building.
- 4.4. Plans are submitted to the Building Control Body detailing, amongst other things, foundations and drainage proposals, materials for external and internal finishes, elevations, cross-sections. A Building Control Surveyor will check the plans thoroughly, liaising with the developer/contractor until they are satisfied the plans propose a compliant development. Surveyors ensure that the plans meet all relevant technical requirements of the regulations. The plans are then passed or passed subject to certain conditions.
- 4.5. Officers will undertake site visits at various stages through development. Inspections are based on risk assessments. Normally, there would be intensive inspections in early and final stages. In the early stages, foundations and drainage below ground would be targeted. Essentially the inspections would focus on critical elements that would be covered up during construction. In the final stages, the focus would be on items such as fire safety, above ground drainage, etc. These inspections are limited in that surveyors are not always able to inspect every aspect of a building's construction. Periodic inspections would pick up issues of non-compliance which are then addressed through the construction process, rather than at the end. The developer is responsible for demonstrating compliance with the regulations. Building Control Body is there to verify compliance as far as it is practicable.
- 4.6. Following practical completion of the development the Council will usually approve the development. In the case of new build, there are a number of certificates that are required from an accredited testing body before the work is finally signed off. These certificates relate to items such as gas and electrical safety, energy efficiency, acoustic performance, etc. Once a Completion Certificate is issued the Building Control involvement ends, unless or until

further changes are made to the building which require approval under Building Regulations.

- 4.7 Approvals under Building Regulations can be issued by the local authority or an Approved Inspector (private sector 'for profit' providers of Building Control that operate in direct competition with local authority Building Control teams). When a developer chooses to work with an Approved Inspector, local authorities do not have any powers to intervene or enforce the regulations unless the project is returned to the local authority by the Approved Inspector.
- 4.8 Where building work is being undertaken within existing buildings the person carrying out the work has a responsibility to demonstrate that both the building work complies with the requirements of the building regulations and that these works do not make any other parts of the existing building any worse in terms of compliance.

5. Technical Guidance under Building Regulations.

- 5.1 The requirements under the Building Regulations are functional. For example, in the case of structural safety, the requirement would read like all the loads shall be transmitted safely to the ground. It is up to the developer to demonstrate how the requirement is met. In the case of large and complex buildings, many innovative solutions are often presented to the Building Control Body (BCB). The BCB would then apply their technical skills to assess the proposals and where necessary seek independent expert help to satisfy themselves that the proposals meet the relevant requirements of the regulations.
- 5.2 The government has prepared a set of technical guidance to provide some common solutions to common situations. These are called Approved Documents and they have been in use since 1985.
- 5.3 A suite of Approved Documents cover each part of the technical requirement. These are normally used by the small and medium size developers who work on simple projects.
- 5.4 There are no requirements to follow the guidance in the Approved Documents. But, there is wide spread misunderstanding of the status of these documents. Many refer to these as the regulations which is definitely not the case.
- 5.5 The contents of the documents are revised periodically to reflect the new methods of construction and innovations. They are also reviewed if significant failings are identified. For example, acoustic testing was introduced as a requirement following consistent failures in new build flats prior to year 2000.

6. Review of Building Regulations and Fire Safety

- 6.1 An independent review of the building regulations was commissioned by the government following the Grenfell Disaster. Dame Judith Hackitt was appointed to carry out the review.
- 6.2 An Interim Report was published in December 2017, the key message from which in respect of high rise buildings was that *“the current regulatory system for ensuring fire safety in high-rise and complex buildings is not fit for purpose”*. The other key findings announced in the Interim Report included:
- Current regulations and guidance are too complex and unclear. This can lead to confusion and misinterpretation in their application to high-rise and complex buildings.
 - Clarity of roles and responsibilities is poor.
 - The competency of key people throughout the system is inadequate.
 - Compliance, enforcement and sanctions processes are too weak.
 - The system of product testing, marketing and quality assurance is not clear.
 - The route for residents to escalate concerns is unclear and inadequate.
- 6.3 The interim report expressed serious concerns over practices and even the culture of the building industry. In particular ‘the mind-set of doing things as cheaply as possible and passing on responsibility for problems and shortcomings.’ This is generally compounded by the pressures of competition coming in from all directions, not just in Building Control, but also in the way manufactures use test and certification as a marketing advantage. It’s an indictment of the current system that building control surveyors may not know what is being delivered on site when, by which supplier, or even how to identify it.
- 6.4 Dame Judith Hackett’s final report “Building a Safer Future” was published on 17 May 2018 and recommends sweeping changes.
- 6.5 The implementation of these changes, if accepted by Government, would require significant change in the legislation which in turn would take time. A full digest and analysis of the report can be provided with more time, however a brief summary of recommendations is listed below.
- A new class of buildings are created called Multi Occupancy Higher Risk Residential Buildings (HRRBs) that are 10 storeys or more in height.
 - A new Joint Competent Authority (JCA) comprising Local Authority Building Control, Fire and Rescue Service and Health and Safety

Executive is created to oversee safety risks across the entire life cycle.

- Mandatory incident reporting
- Rigorous and demanding duty holder roles and responsibilities
- Stronger change control process that would require sign off from JCA before implementation
- Rigorous enforcement powers
- Clearer rights and obligations for residents
- More effective testing regime for products
- Professionals engaged in design, construction and verifications of HRRBs would be required to have appropriate competencies.

6.6 In respect of ACM cladding on high rise buildings, Dame Hackitt's report did not go as far as recommending a ban on its use, rather stating that the Grenfell fire was the result of a number of failures across the building regulations system and the management of the building from a fire safety perspective, not just the use of combustible materials. Instead, she recommends wholesale changes to the way materials are tested through the building regulations approval process, recommending a move away from things like desktop studies as a way of achieving approval for a material or product.

6.7 However the Government, including the Secretary of State for Housing, Communities and Local Government and the Prime Minister, have indicated that despite this they are likely to proceed with a total ban on ACM cladding and combustible materials on high rise buildings, although the timescales for this are not yet clear.

6.8 The majority if not all of the recommendations would require significant change in legislation before they could be implemented into the system currently used for Building Control and Regulations in the Council. However, in terms of how the Council's Building Control team is already working in line with some of these recommendations, we are working with Lewisham Homes from concept stage to ensure building and fire safety are at the forefront of every new Council led scheme. Additionally, all of our surveyors attend technical seminars on a regular basis to work effectively. Our surveyors would be kept up to date with required competencies.

7. Financial Implications

7.1. There are no financial implications arising directly from this report.

8. Legal Implications

8.1. There are no legal implications arising directly from this report.

9. Equalities implications

9.1. There are no equalities implications arising directly from this report.

10. Crime and Disorder implications

10.1. There are no crime and disorder implications arising directly from this report.

11. Environmental implications

11.1. There are no environmental implications arising directly from this report.

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