



Llywodraeth Cymru
Welsh Government

Welsh Government

Consultation Supporting Document

Safer Buildings in Wales: A Summary Version of the White Paper

A Building Safety White Paper

The White Paper sets out proposals for comprehensive reform of legislation that contributes to building safety in Wales. It focuses on legislative change across the lifecycle of buildings as well as setting out aspirations for culture change in the way buildings are designed, constructed and managed. This document provides an overview of those proposals.

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Mae'r ddogfen yma hefyd ar gael yn Gymraeg.

This document is also available in Welsh.

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Introduction

1. In our Building Safety White Paper, we want to let you know about the changes we are proposing to improve safety and minimise the risk of fire, as well as setting out aspirations for culture change in the way buildings are designed, constructed and managed. Some of the changes we are proposing will require new legislation, which will take time, but we would be able to move ahead with some of our other proposals in the meantime.
2. This guide summarises the key changes we are suggesting and provides links to the full consultation document, should you wish to read more of the detail. A glossary at the end of document provides definitions of key terms – these are highlighted in bold italics where they are first used in this document.
3. A White Paper sets out what the Welsh Government wants to do and invites anyone with an interest in the issues covered to tell us what they think of the proposals. We do this by setting out questions we would like you to consider. A full list of the questions are at the end of the document, but we will indicated which questions are relevant as we discuss the different sections of the White Paper below. We will publish a summary of responses and will consider these views while refining our proposals.

Why are we making changes?

4. Whilst Wales has a good record on fire safety, the tragic fire at Grenfell Tower showed the need to make changes and improvements to the building safety system. An independent review¹ and the inquiry into the Grenfell Tower fire, together with work of our own Building Safety Expert Group have identified areas for improvement. The proposals in the White Paper build on the work set out in the Building Safety Expert Group's report – Road Map to Safer Buildings in Wales².
5. We are proposing a new Building Safety Regime for Wales, which will focus on areas we know need to improve. We propose to establish clear lines of accountability by creating new roles and responsibilities for those who own and manage relevant buildings and provide a stronger regulatory system to hold those responsible to account. It will put residents at its heart, with enhanced rights and a stronger voice on matters affecting their homes.
6. Reforms on the scale we would like to make are complex and will take time to develop and embed, but this is the start of the process.

¹ [Hackitt review](https://www.gov.uk/government/collections/independent-review-of-building-regulations-and-fire-safety-hackitt-review): <https://www.gov.uk/government/collections/independent-review-of-building-regulations-and-fire-safety-hackitt-review>

² [Building Safety Road Map](https://gov.wales/sites/default/files/publications/2019-04/building-safety-expert-group-road-map_0.pdf): https://gov.wales/sites/default/files/publications/2019-04/building-safety-expert-group-road-map_0.pdf

Overview of the White Paper

7. We propose that the Building Safety Regime covers all ***multi-occupied residential buildings***. This means the scope of the regime would capture a house converted into two flats, a licensed ***house in multiple occupation*** (HMO) through to a high-rise apartment block.
8. **Sections 1 and 2** provide an introduction and summary for the White Paper. **Section 3** sets out the reasons for making changes and sets out what has already been done. These sections can be found on pages 4 to 24 of the White Paper.
9. This document summarises the key information in sections 4 to 11 and sets out where in the White Paper to find further information on the topic.
10. **Section 4** (pages 25 to 27) sets out the first steps for an improved building safety regime, using powers we would gain via the UK Government's legislation which will be introduced in 2021. It also considers how the legislation being introduced by the UK Government³ will benefit Wales.
11. **Sections 5 to 7** (pages 28 to 80) set out the scope of the building safety regime we propose to put in place, both during the design and construction phase and when the building is occupied. These are proposals for the longer term, which will require changes to Regulations and new primary legislation.
12. **Section 8** (pages 81 to 90) sets out how the proposals will impact residents, by detailing the roles and responsibilities expected of them.
13. **Sections 9 and 10** (pages 91 to 109) set out how concerns can be raised and the framework we intend to develop to guide thinking about how the Building Safety Regime would be regulated.
14. **Section 11** (pages 110 to 112) sets out the current position in relation to fire safety equipment in residential properties and asks for views on whether there should be additional requirements.
15. **Sections 12** (pages 113 to 117) provide annexes with technical and other detailed information
16. Various impact assessments have been carried out to support our thinking, these have been published alongside the White Paper.

³ [Draft Building Safety Bill](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/906737/Draft_Building_Safety_Bill_Web_Accessible.pdf):

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/906737/Draft_Building_Safety_Bill_Web_Accessible.pdf

Section 4: An improved building safety regime – first steps

We have been working with the UK Government to consider how parts of the draft Building Safety Bill, in relation to design and construction, will apply in Wales. This section sets out the objectives we intend to deliver for Wales as a result of the draft Building Safety Bill where it applies to Wales. Whilst comments are invited, the content of the draft Bill as amended to apply to Wales, has yet to be published. The draft Bill, when introduced, will be subject to the full Parliamentary scrutiny process. Much of the detail of the new regulatory regime will be addressed through secondary legislation which will be the subject of public consultation in due course.

17. We are seeking views on issues relating to consultation between building control bodies and the fire and rescue authorities, together with the minimum level and type of information (fire and structural) that should be submitted to the building control body during the construction of a building. We are also seeking views on requiring local authorities to record certain information for all building control applications related to Category 1⁴ buildings in their areas.
18. At present, the building control system is largely the same for England and Wales. The UK Government has published a draft Building Safety Bill⁵ which has presented an opportunity to take earlier action in our efforts to respond to the need to modernise both the building control system and the way the construction industry discharges its responsibilities. We have agreed with the UK Government that applying elements of their Bill will provide the necessary tools to allow the Welsh Government to modernise the design and construction system in Wales. This would be subject to the agreement of the Senedd.
19. More detail on the English proposals and which elements we would like to apply in Wales is available in Section 6 of the White Paper (The Building Safety Regime – Design and Construction Phase).

Section 5: Setting out the scope of the Building Safety Regime

20. In the summer of 2020, we published a Position Paper⁶ with our first thoughts on proposed reforms. The feedback and subsequent discussions with stakeholders has enabled us to clarify our approach for a single Building Safety Regime that will apply to all building where there are two or more dwellings. Our proposals will:

⁴ An explanation of Category 1 buildings follows in paragraphs 22 and 23 of this paper.

⁵ [Draft Building Safety Bill](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/906737/Draft_Building_Safety_Bill_Web_Accessible.pdf):

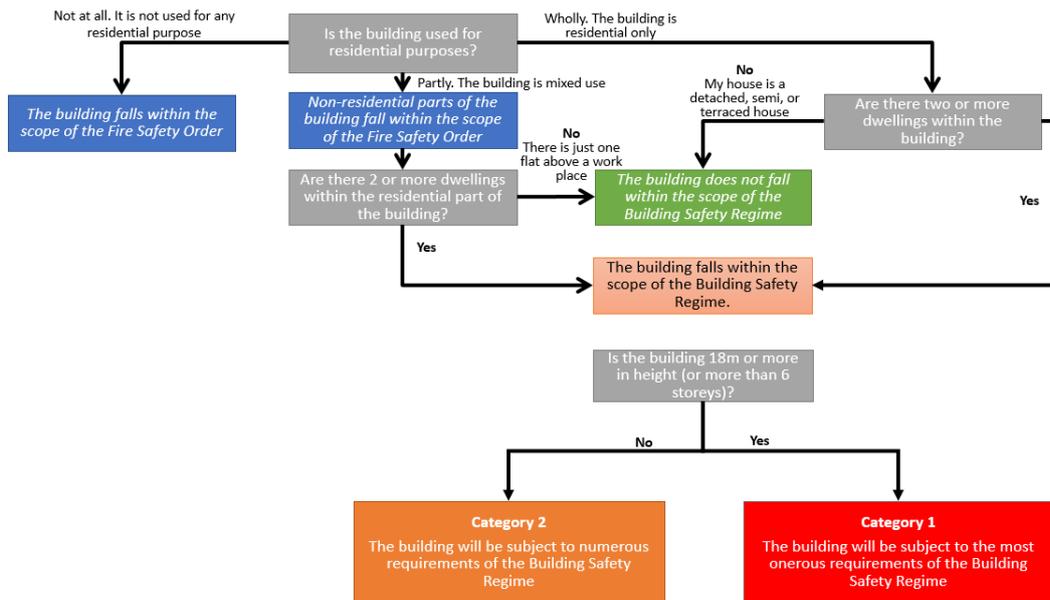
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/906737/Draft_Building_Safety_Bill_Web_Accessible.pdf

⁶ [Building Safety position statement](https://gov.wales/sites/default/files/publications/2020-06/building-safety-position-statement.pdf): <https://gov.wales/sites/default/files/publications/2020-06/building-safety-position-statement.pdf>

- Provide clarity with regards to those who are responsible for safety in **multi-occupied buildings**, throughout the lifecycle of the building. These **dutyholders** will be required to address the risks of fire and reduce the risk where possible, making people's homes as safe as possible.
 - Ensure these roles and responsibilities will be robust and readily understood. For those who choose to ignore their obligations, there will be robust and timely enforcement action from regulators.
 - Ensure residents have an active role in contributing to the building safety and are clear about the part they play.
21. We propose the Building Safety Regime covers all multi-occupied buildings. This is because many of the risks to safety are broadly the same regardless of how large the building is. The burdens that are placed on buildings within scope will differ depending on which risk category the building falls within.
22. We recognise that different types of buildings may need a different approach to their management and that certain buildings will be of higher risk, so we propose defining buildings as being in one of two categories. Category 1⁷ buildings would be subject to the greatest requirements. Category 2⁸ buildings would still be subject to numerous requirements of the Building Safety Regime.
23. The diagram below helps to identify which buildings would be within scope of the Building Safety Regime and which category buildings would fall into:

⁷ Category 1 buildings will be multi-occupied residential buildings with six storeys or a floor of 18 metres or more in height above ground level, but with scope for this definition to be flexible should evidence suggest it should be widened.

⁸ Category 2 buildings would be residential properties with two or more dwellings that are no more than 18 metres in height.



24. An alternative option (described in the White Paper as Option B) is to have three categories of risk: Standard, Enhanced and Advanced⁹. Buildings in the Standard category would be subject to the least onerous requirements
25. Regardless of the number of categories, we propose that all buildings within the scope of the regime would as a minimum:
- Have to be registered – a process which would clearly identify the **Accountable Person**;
 - have to have an annual fire risk assessment undertaken by a suitably qualified person; and
 - Have to record the outcomes of the fire risk assessment.
26. There are a number of situations where a property would fall outside of the scope of the Building Safety Regime, regardless of which category the residential building falls into. The table below gives an indication of our current thinking but we are seeking views on whether there should be any other exemptions.

⁹ Standard: properties with five or fewer dwellings within a single property (e.g. a house converted into two flats or a licensed HMO with five bedrooms).

Enhanced: properties with four or more dwellings and that are no more than 18m in height (e.g. house converted into seven flats, a licensed HMO with six bedrooms, a five storey purpose built block of flats or a four storey office block converted into flats).

Advanced: buildings 18m or more in height or more than six storeys and contain more than two dwellings (e.g. seven storey block of flats used for student accommodation, eight storey block of leasehold properties or a mixed use 13 storey building with four floors of flats).

27. In particular, our proposals would mean that single flats above commercial premises (like shops or pubs) would not be covered as there is only one dwelling in the premises. While the proposals in the White Paper would generally not be relevant to single flats, we are seeking views on whether we should look for other ways to improve fire safety in such premises.

Building Type	
Buildings with two or more dwellings (flats/ maisonettes) – this would include purpose built student accommodation	In scope
<i>Licensed HMOs</i>	In scope
Individual dwellings (detached, semi-detached, terrace, mobile/park homes)	Out of scope
Onsite accommodation provided for employees to fulfil their roles (e.g. for on-call doctors/ nurses/ carers)	Out of scope
Care Homes	Out of scope
Hospitals (includes hospices and other patient accommodation)	Out of scope
Military Barracks (includes other MoD owned accommodation)	Out of scope
Prisons and other custodial facilities	Out of scope
Hotels (includes BnBs, guesthouses, hostels, accommodation at members clubs, self-catering holiday accommodation, serviced apartments, etc)	Out of scope

28. The consultation questions relating to this Section of the White Paper are numbers 1 to 8.

Section 6: The Building Safety Regime (Design and Construction Phase)

29. We are clear that for those buildings considered to be at higher risk, there must be more stringent controls in place during the design and construction of the buildings. This includes a clearly identified ***dutyholder*** role and clarity in relation to those responsibilities, as well as an enhanced programme of checks to support evidence of compliance with relevant regulations.
30. Information is critical to the ongoing safety of buildings. The '***Golden Thread***' of up-to-date information about the design, construction and ongoing maintenance of buildings that are classed as Category 1 is a key aspect of their long term safety. We will work with the UK Government to ensure a consistent approach

to the data requirements, format and technology is adopted in building and maintaining the Golden Thread.

31. The principles of the Golden Thread are:

- Information is accurate and up-to-date – dutyholders will be required to collect, store and update data and information in a consistent way
- Allows relevant dutyholders to use this information to inform their decisions, plans and actions.
- Provides reassurance to those with an interest in the building (including residents) that information is available to those managing the building to make timely and effective decisions in relation to building safety.
- Information supports openness and transparency.

32. The Golden Thread is a living record of the building; it will support the gateway process as well as a comprehensive source of information for those working on buildings and the ongoing management of the building. It will be kept in digital form to ensure those who need it most are able to access the information quickly and easily.

33. It will not be relevant or necessary for all the detailed information that it part of the Golden Thread to be available to the public or to residents, but some basic information available as a public record will be helpful. This will be defined with the **Key Dataset**: a small subset of the Golden Thread. We anticipate the Key Dataset for all buildings to include:

- Unique building identifier
- Location (address)
- Size (e.g. height, storeys, footprint, number of dwellings)
- Building type/purpose
- Years built and refurbished
- Minimal information on safety-related features

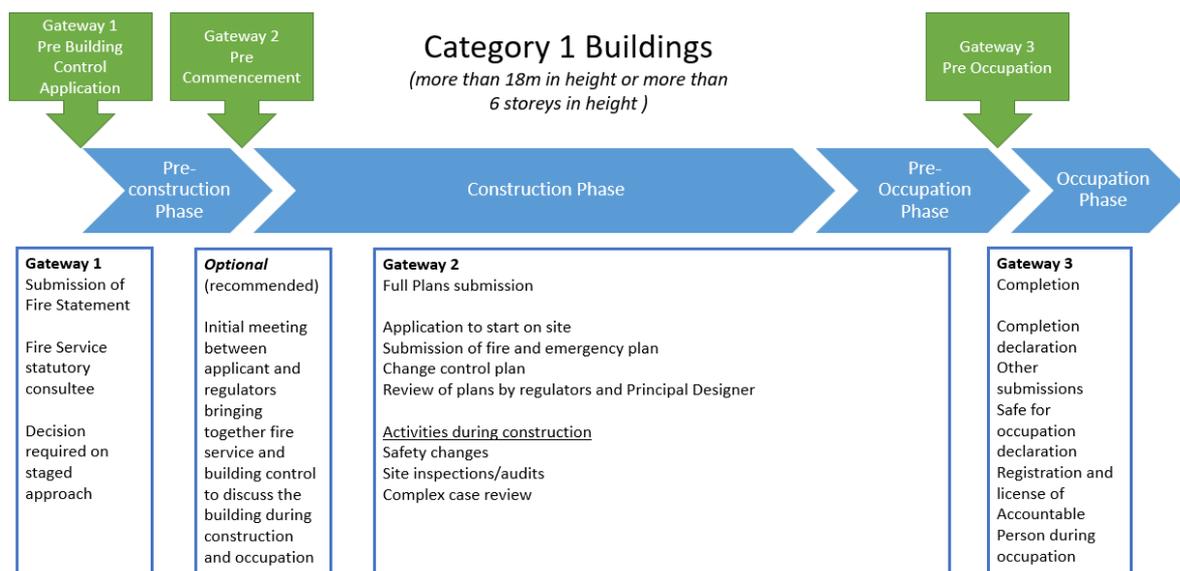
For Category 1 buildings, it will also include:

- Façade and structure information
- Dates and outcomes of gateway points and safety case reviews

- Current and past dutyholders, including accountable persons.
34. Whilst the key dataset will be open and accessible, it will not contain information that would compromise the safety of buildings and their residents, or the privacy of residents. The rest of the Golden Thread would not be made publically available, although residents would be able to request more detailed information about safety measures for their buildings.
 35. Further detail on information within the Golden Thread during the Design and Construction, and Occupation phases of a building's lifecycle are set out on page3 36 to 38 of the White Paper.

Design and Construction – Dutyholders, Gateways and Building Control Bodies

36. We are also working with the UK Government to ensure consistency with the approach to dutyholders. It is our intention that the application to Wales of the UK Government's draft Building Safety Bill will provide the necessary powers to set dutyholder roles and responsibilities. We therefore propose the introduction of five dutyholder roles for buildings in scope during the design and construction phase with clear safety responsibilities that are set out in law: Client; Principal Designer; Principal Contractor; Designer; and Contractor. Further detail on the dutyholder roles and responsibilities is available in the White Paper on pages 38 to 40.
37. We also support the proposals in the UK Government's draft Building Safety Bill to provide powers to set detailed proposals for the three intended **Gateway** Points at which the dutyholder will need to demonstrate that they are managing building safety risks appropriately in order to progress to the next stage of development.
38. The UK Government's draft Bill includes powers to introduce three Gateways points in Wales. The diagram below sets out a high level overview of the process.



39. The Hackitt Review identified that there was a conflict of interest as a result of developers choosing their own provider for building control services. For Category 1 buildings, the draft Bill proposes to remove the element of choice – the local authority will provide the Building Control for all residential buildings over 18m or more in height. Alternatively, the local authority could utilise the services of an appropriate Approved Inspector in delivering its building control function.
40. There could be a potential conflict of interest where the local authority is the building control body for its own developments. Therefore, for Category 1 buildings, the draft Bill proposes that in circumstances where a local authority is a dutyholder (for example, where it is developing a site for residential use) then building control will have to be provided by another Welsh local authority.
41. Further details, including who will provide the Building Control role, more detail on the different Gateways and the use of Gateways for major refurbishment works can be found on pages 41 to 51 of the White Paper.
42. The consultation questions we are asking on this Section are numbers 9 to 34.

Section 7: The Building Safety Regime (Occupation Phase)

43. When occupied, buildings are likely to go through many changes over the years as for example, buildings degrade over time, or they are refurbished or improved. A building will also have a shifting resident profile, and the numerous ways that residents and others will interact with the building over time will impact on the safety of the building.

44. As such, the risks that buildings, and their residents, are exposed to over time changes. What was considered safe in the past may not be considered safe in the future (for example, asbestos). Buildings should be actively managed to ensure that risks are minimised as far as is practicable. This is the case for all buildings, regardless of whether they are high rise, residential or otherwise.
45. There are already a number of regimes that promote the safety of buildings, which are detailed in paragraphs 7.1.4 to 7.1.6 of the White Paper. Maintaining a robust and effective approach to safety remains critical over the course of occupation to safeguard residents. As such, we propose a dutyholder role during occupation: the '**Accountable Person**', who will have legal responsibility for the safety of the whole building used for residential purposes.
46. Further detail of the role of Accountable Person is at pages 53 to 54 of the White Paper, but the main responsibilities for the position will include:
- A duty to register all in-scope buildings under their ownership / control
 - Ensuring compliance with the statutory duties in occupation
 - Ensuring those employed in the maintenance and management of the building's safety have sufficient skills, knowledge and experience to comply with the regime.
 - Providing sufficient funds to undertake the statutory duties.
 - Maintaining proper engagement with others in relation to management of in-scope buildings within their control (i.e. the regulator, other dutyholders and residents).
47. There are a number of possibilities as to who could take on this role, given the wide range of different ownership and management models for multi-occupied buildings, as well as different approaches in the social and private rental sectors. We have chosen to articulate the responsibilities we would expect dutyholders to undertake rather than specify a particular body or individual to take on this role. However, where no nomination is provided, the default assumption will be that the Accountable Person is likely to be the freeholder, with a nominated person supporting them in carrying out their duties (for example, a Managing Agent or building Safety Manager). For all buildings within the scope of the Building Safety Regime, the Accountable Person will be required to identify and register themselves.
48. We propose to create an additional dutyholder role for buildings during the occupation phase, that of **Building Safety Manager** (BSM), which will apply to

Category 1 buildings only. It is anticipated that the BSM will have closer day to day responsibility for management of the building and completing the more practical tasks that ensure the building complies with the regime's proposed requirements. The Accountable Person may opt not to engage a BSM and to carry out the BSM's duties themselves. More information is set out in the White Paper on page 55, but responsibilities could include:

- Creating, reviewing and maintaining building information (i.e. the Golden Thread)
- Planning and monitoring any maintenance or improvement works
- Ensuring any third parties engaged to work on the buildings are suitable competent and qualified to do so
- Cooperating with other dutyholders and enforcement bodies
- Engaging with and informing residents.

Drawing a Line: Two Categories of Risk

49. Blocks of flats very considerable, from 'conversions' containing only a handful of dwellings to tower blocks containing up to a hundred or more dwellings. However, the types of fire risk in all such premises are broadly similar (e.g. a fire in one flat spreading to others, and/or impeding a safe escape) and we believe it is right for the new regime to protect residents of all blocks of flats, whatever their size.
50. The risk of fire breaking out in any given flat does not vary because of the overall size of the building or number of flats in it. However, the consequences of a fire happening may do. Most dwelling fires are caused by unsafe behaviour, not unsafe premises. Statistically, we also know that people with certain characteristic such as disability, old age, smoking and substance misuse are more at risk of having a fire and/or being unable to escape from one. Therefore, the risk of fire in a given building depends on the characteristics of its residents and their behaviour, rather than the building itself. However, these characteristics change over time and it is not reasonable for the Accountable Person to now about them and so it is not suitable to use these as a means to categorise buildings.
51. The size of a building or the number of dwellings in it is, however, fixed and knowable. It is a reasonable measure of the number of people at risk if a fire or other serious incident occurred within the building. Therefore, it would be practicable to use this as a basis for categorisation.

52. The following tables sets out our proposed requirements on the Accountable Person for Category 1 and Category 2 buildings. Further detail is in the White Paper in pages 55 to 61.

Roles and Responsibilities: Two Risk Categories

To note: buildings in the 'riskier' categories will have to comply with all of the roles and responsibilities of the lower category.

CATEGORY 2	CATEGORY 1
<i>Buildings with two or more separate dwellings which are less than 18m in height (or up to and including 6 storeys)</i>	<i>Buildings which are 18m or more in height or more than 6 storeys with two or more dwellings</i>
<i>During Design & Construction:</i>	<i>During Design & Construction:</i>
The building will have to comply with all relevant Building Regulations. There is a choice of Building Control Body to oversee this work.	The building will have to go through the new Gateway Application Process. Dutyholders will have to be identified. The option to choose the Building Control Body to oversee this work will be removed.
<i>During Occupation:</i>	<i>During Occupation:</i>
An Accountable Person will need to be registered against the building who will be required to ensure that they undertake a number of roles and responsibilities including in relation to:	An Accountable Person will need to be registered against the building. The Accountable Person will be required to ensure that they undertake a number of additional roles and responsibilities in addition to those set out under Category 2, including in relation to:
Activities in relation to keeping and using information	Activities in relation to keeping and using information
<ul style="list-style-type: none"> • Undertake annual Fire Risk Assessments and document findings • Act on the findings of the Fire Risk Assessment • Keep any installation/testing certificate • Provide information on the Key Dataset at registration 	<ul style="list-style-type: none"> • Create, maintain and update the Golden Thread for the building • Create, maintain and update the Safety Case for the building
Activities in relation to building maintenance	Activities in relation to building maintenance
<ul style="list-style-type: none"> • Ensure that there is appropriate compartmentation in the building's structure and external walls and any common parts • Providing and maintaining relevant (fire) safety equipment • Ensuring the risk of fire within a building is reduced so far as is reasonably practicable. • Ensure annual fire risk assessments of the building are undertaken by a suitably qualified person 	<p>In addition to the requirement in relation to fire:</p> <ul style="list-style-type: none"> • Ensuring the risks of failure in structural integrity are reduced so far as is reasonably practicable. • Ensure regular reviews of the Safety Case are undertaken by a suitably qualified person including the structural integrity of the fabric of the building. • Plan, monitor and manage maintenance and improvements in response to the Safety Case, reducing risk of structural integrity

CATEGORY 2	CATEGORY 1
<ul style="list-style-type: none"> Plan, monitor and manage maintenance and improvements in response to fire risk assessments, reducing risk of fire for the building. 	<p>failure for the building. Any works should comply with current building regulations</p>
<p>Working with others</p> <ul style="list-style-type: none"> Working with other RPs under the FSO where appropriate Cooperate with enforcement bodies Provide relevant information to emergency services (and others supporting an emergency response) in the event of an incident 	<p>Working with others</p> <ul style="list-style-type: none"> Provide relevant information to regulators with regards to Building Safety The Accountable Person and Building Safety Manager must work with and support each other.
<p>Probity and responsible working</p> <ul style="list-style-type: none"> The Accountable Person would have to be registered. Where another 'person' was managing the building on behalf of the Accountable Person they would have to be identified. Where a 'person' was discharging roles and responsibilities on behalf of the Accountable Person (for example a Managing Agent or Building Safety Manager) they should be suitably qualified to undertake this role. Where they are not qualified they should procure the relevant services to undertake aspects of the role. Ensure effective communication (meeting any relevant statutory obligations) in terms of communicating effectively about planned maintenance and upgrades (as a result of the fire risk assessment) and the impact of these works on service charges, providing sufficient notice where expenses are likely to be high. 	<p>Probity and responsible working</p> <ul style="list-style-type: none"> Ensure robust and transparent record keeping. Undertake due diligence and have proper financial practices in place The Accountable Person must consider the lifecycle of the building and ensure it is suitably maintained (and upgraded) to ensure the safety of the asset now and for the future. If the Accountable Person is not undertaking the role of Building Safety Manager themselves they will need to appoint a suitably competent person to undertake work on a day to day basis. This person must be suitably qualified and licensed. The Accountable Person must ensure there are sufficient funds available to this person in order for them to effectively undertake these roles and responsibilities on behalf of the Accountable Person.
<p>Supporting and informing residents</p> <ul style="list-style-type: none"> Promoting Building Safety 	<p>Supporting and informing residents</p> <ul style="list-style-type: none"> Develop and deliver a resident engagement strategy Actively manage complaints and concerns of residents

53. We believe that Two Risk Categories is the most appropriate response to address the issues of fire and building safety, but we recognise that there may be an additional burden placed on those responsible for managing and maintaining buildings within Category 2. Therefore, an alternative approach would be to have three risk categories. Further detail on this option is in the White Paper Annex 12.2.

Fire Risk Assessments

54. A robust fire risk assessment is at the core of the new Building Safety Regime. We propose to put in place new arrangements for the fire risk assessment that will ensure the system has flexibility and that responsibility for identifying and implementing fire safety measures properly resides with those in control of the building rather than with the government or regulators.
55. Currently, the 'responsible persons' have considerable discretion over the conduct of a fire risk assessment and action taken as a result. This is part of the flexibility we want to retain. However, in residential buildings, where the risk of injury and/or death as a result of fire is significantly higher, we believe Fire Risk Assessments should be conducted to a suitable standard, with sufficient frequency, be recorded properly, and have regard for the interests of the residents.
56. We propose a system which is tailored to multi-occupied buildings and which is easier for the Accountable Persons to understand and apply.

Fire Safety Outcomes

57. We propose to define fire safety outcome, which Accountable Persons should be seeking to attain and are inviting views on the following:

Fire safety outcomes

- (i) **Fire prevention.** The risk of fire breaking out in the building should be as low as possible.
 - (ii) **Fire protection.** If a fire does break out, it should be contained where it originates, without spreading to other flats, the exterior of the building or a common area.
 - (iii) **Escape.** All people who are in immediate danger from fire should be able to leave the premises swiftly and safely.
 - (iv) **Firefighting.** Any fire that does break out should be extinguished as quickly and safely as possible.
58. The purpose of a Fire Risk Assessment would be to determine the extent to which these outcomes were attained and the identify measure or actions that could, and should, be taken to improve the extent to which the objectives were attained. A proper and legally-compliant fire risk assessment would clearly identify and records:

- The extent to which fire safety outcomes were being attained in the premises;
- The specific risks which prevented the attainment of each outcome;
- Measures for mitigating and avoiding those risks; and
- The timescale for implementing those measures and their actual completion.

59. It would not be lawful for the Accountable Person to:

- Fail to conduct a risk assessment, or keep it up to date;
- Fail to consider the specific features of the premises concerned
- Record only the risks that existed, without any mitigation measures; or
- Fail to implement mitigation measures without good reason.

60. Further information, including greater detail on fire safety outcomes listed above, is in the White Paper at pages 61 to 70.

61. We propose that fire risk assessments must be reviewed annually, and on every occasion that the premises are subject to major works or renovations or are otherwise subject to a significant change in circumstances. We are also proposing that all fire risk assessments must be conducted by suitably qualified and experienced individuals. All fire risk assessments must be permanently recorded in documentary or electronic form. These requirements would apply to all buildings within the scope of the Building Safety Regime, regardless of the risk Category for the building.

Compartmentation

62. **Compartmentation** is the capacity of the structure of a building to contain a fire where it originates for long enough to allow it to be extinguished. It relies on the building being constructed and maintained in ways which resist the spread of fire. If a fire spreads beyond the dwelling where it starts, others are in immediate danger. More seriously, a fire which spreads into a common area (for example a hallway or staircase) can threaten all the building's occupants, while also preventing them from escaping.

63. There are already requirements in Building Regulations covering compartmentation¹⁰ but they only protect the building at the point it is completed and handed over for use. During occupation, buildings can deteriorate and/or be modified in ways which could jeopardise compartmentation.
64. We believe compartmentation should be covered in fire risk assessments to identify and address any flaws in compartmentation. However, a fire risk assessor may be unable to detect some flaws, for example, where they are within a dwelling. Such issues point to creating requirements on everyone who occupies or works in the building, not just the Accountable Person.
65. We propose to create a new general duty to maintain compartmentation in all buildings within scope of the Building Safety Regime. This duty would apply to everyone, including residents and contractors, as well as the Accountable Person. We are proposing that this duty would prevent a resident or Accountable Person from knowingly or recklessly weakening compartmentation to a significant extent. Examples of activities that would weaken compartmentation to a significant extent are:
- Drilling through or otherwise penetrating an external wall without applying adequate fire-stopping;
 - Drilling through or otherwise penetrating any part of the internal structure separating one flat from another, a roof or ceiling void or a common area without applying fire-stopping;
 - Replacing fire doors with doors which do not adequately resist the spread of fire;
 - Modifying fire doors by installing letterboxes, cat flaps and so on which do not adequately resist the spread of fire; and
 - Installing windows or window vents which, because of their design or means of installation, do not adequately resist the spread of fire.
66. The duty would not cover accidental damage, provided that steps were taken to repair the damage promptly and in ways which restored compartmentation, or matters which pose no significant threat to compartmentation, including:
- Works wholly within a flat such as knocking through internal walls separating one room from another;

¹⁰ [Approved Document B Volume 2](https://gov.wales/sites/default/files/publications/2019-05/building-regulations-guidance-part-b-fire-safety-volume-2-buildings-other-than-dwellinghouses.pdf): <https://gov.wales/sites/default/files/publications/2019-05/building-regulations-guidance-part-b-fire-safety-volume-2-buildings-other-than-dwellinghouses.pdf>

- Replacing internal doors within a flat (unless such door were required by Building Regulations to be fire door); or
- Works which do not fully penetrate a wall, floor or ceiling, such as wall-mounting of appliances, curtains or furniture.

Safety Case

67. Information is key across the life cycle of a building. During occupation, for Category 1 buildings, this is in the form of building **Safety Case**, which will set out the fire and structural risks identified in the building, how those risks have been dealt with and/or how they are being managed. We intend to work with the UK Government to ensure consistency across the industry with regards to Safety Cases. The process of preparing the Safety Case will involve:
- Identifying hazards
 - Deciding who might be harmed and how
 - Evaluating the risks associated with these hazards
 - Deciding on the necessary control and mitigation measure
 - Recording those findings and implementing them
 - Evaluating and monitoring on an ongoing basis.
68. The Safety Case should refer to the totality of the building safety information and include all supporting evidence identifying how fire and structural risks are being managed. The Fire Risk Assessment would be an integral part of the Safety Case. This information should be stored in the Golden Thread.
69. Further detail on the production of a Safety Case and how risks should be managed across the building lifecycle are set out in pages 72 to 74 of the White Paper.

Mandatory Reporting

70. Where observed properly, the duties we are proposing will help reduce and mitigate building safety risks in a building. However, despite best efforts, the reality is that sometimes things will go wrong. We propose there should be a duty on the Accountable Person to report any significant incidents or occurrences that would pose a significant risk to life and safety to the regulator.
71. Further details are at page 74.

Registration and Licensing

The Accountable Person

72. In order to strengthen oversight and accountability for the new regime, we propose that there will be a legal requirement for the Accountable Person to register the building(s) they are responsible for, regardless of which Category the building is. In the event of failure of a dutyholder to register themselves as the Accountable Person in respect of a particular building the default assumption will be that the Accountable Person is the freeholder.
73. In addition, the Accountable Person would also identify and provide details for the person/entity managing the building on their behalf if they are not undertaking the role themselves. This could be a **Managing Agent** for Category 2 buildings or a Building Safety Manager for Category 1 buildings.
74. As part of the registration process, the Accountable Person would:
- Provide information in relation to the building, including the key dataset
 - Identify the person/entity that is performing the property management function (this could be the same person)
 - Have undertaken or committed to undertake a Fire Risk Assessment
 - Have established systems and protocols for working and sharing information with others
 - For Category 1 buildings they would have to create a Safety Case for the building
75. In Wales, we already have established precedent for a similar system. Rent Smart Wales requires all landlords in Wales to register as landlord for properties they rent and to apply for a licence if they self-manage the property or to disclose the name of any third party agent that will be responsible for managing the property who will then be required to apply for an agent licence. While the system is not entirely comparable to the proposed approach under the building Safety Regime, many of the key principles are applicable and demonstrate an effective system of licencing oversight in housing.
76. It is important that the Accountable Person has the required expertise and competence to fulfil their roles properly and that the right people are undertaking this work, whether this is the Accountable Person or others they may need to delegate to.

77. We believe there should be a requirement to complete basic training as a prerequisite to registering as an Accountable Person. Once basic training has been undertaken, and the Accountable Person has their 'Accountable Persons License', they would be able to register their building(s).
78. The Accountable Person for Category 1 buildings would also need to pass a fit and proper person test. This would demonstrate they are of sufficient integrity and good character to be involved in the management of the property and that they do not pose a risk to the welfare or safety of persons occupying the building. If they cannot pass such a test, they must appoint a licensed Building Safety Manager.

Those Managing Buildings

79. It is important to ensure that appropriate management models are put in place. A licensing system could provide a formalised mechanism to set requirements on the suitability and competence required to support Accountable Persons in delivering their duties, but also more broadly for all those involved in the management of all buildings.
80. There is a balance to be struck for different categories of building in relation to the level of expertise required for the proper management of the buildings. For Category 1 buildings, we believe those involved in the day to day management of these buildings and undertaking roles delegated to them by the Accountable Person should be appropriately licensed to demonstrate their competence in terms of knowledge, qualifications and expertise. They would be Building Safety Managers (BSMs) and would have a Building Safety Manager Licence.
81. Currently anyone can undertake residential property management functions with all the legislative, health and safety and financial issues that management of such properties present. As such, we are interested in views about whether there should be regulatory oversight of the exercise of these functions. The Minister for Housing and Local Government has expressed an interest in developing a regulatory regime to capture those who manage leasehold properties.
82. We do not want to make the responsibilities and competence requirements for Category 2 buildings (especially those with fewer dwellings) disproportionate to the tasks involved in managing these buildings. Providing a competence requirement, and importantly guidance and resource in order to meet it, can help level the playing field in this respect. However, the Building Safety Regime includes all buildings containing two or more dwellings. We think it appropriate to consider whether all third parties nominated to manage Category 2 buildings are suitably qualified to do so. We are therefore seeking views as to

whether there should be property management requirements for the same range of buildings.

83. Further detail, set out in pages 75 to 79 of the White Paper, includes requirements to obtain a Building Safety Manager Licence and how we would seek to ensure our requirements on competence align with the UK approach to allow competency requirements to be set at a UK-wide level.

Going Further: Managing Agents

84. The regime outlined in the previous paragraphs is envisioned to encompass all properties which fall under the Building Safety Regime. However, the responsibilities and services provided by organisations which engage in the management of such properties are mirrored closely by those which administer charges to freehold properties on estates where local authorities have not adopted roads, public open spaces and/or facilities, where residents are billed for maintenance costs.
85. Should the proposed regime be extended to cover the administration of all such charges, it would then be possible to ensure there is a focus both on value and on the long term safety, sustainability and stewardship of the property held and/or maintained communally, for the benefit of all residents.

Probity and Responsibility

86. We believe that those with residential property management responsibilities should be required to meet a minimum standard, and there should be a mechanism to prevent those with poor performance from continuing to practice. Requirements may reflect the number / complexity of properties managed.
87. The consultation questions we are asking on Section 7 are numbers 35 to 69.

Section 8: Residents – Roles and Responsibilities

88. Resident safety and wellbeing must be at the heart of these reforms. Residents will be at the core of our new regime and the changes proposed here are about empowering residents to have more say in the matters that affect their homes and providing clear channels for them to speak up and alert those responsible if things go wrong. It is not enough to simply provide channels for complaints. Dutyholders must be able to demonstrate that resident engagement is proactive, meaningful and collaborative.
89. We recognise that in addition to having a greater voice, residents also have a key role to play in assisting with improving building safety in their buildings. In effect, the additional rights conferred under the regime will also come with some responsibilities and dutyholders will play a key role in promoting

awareness and understanding of key building safety principles and how residents can meet them to avoid and mitigate risk.

Requirement on the Accountable Person with regards to Residents

90. Residents in multi-occupied buildings have clear and legitimate interest in understanding the risks that they face. The Accountable Person will have a number of roles and responsibilities in regard to this. The following table sets out the roles and responsibilities for an Accountable Person during the occupation phase;

CATEGORY 2	CATEGORY 1
<i>Buildings with two or more separate dwellings which are less than 18m in height (or up to and including 6 storeys)</i>	<i>Buildings which are 18m or more in height (or more than 6 storeys) with two or more dwellings</i>
Supporting and informing residents Promoting Building Safety	Supporting and informing residents <ul style="list-style-type: none"> • Develop and deliver a resident engagement strategy • Actively manage complaints and concerns of residents

91. There will be minimum expectations on an Accountable Person in relation to supporting and informing residents, we are proposing to require these through legislation, but we hope responsible Accountable Persons will go further than these minimum requirements. Over time, we may consider adding additional requirements in relation to supporting and informing residents.

92. The minimum requirements we are proposing for Accountable Persons in relation to supporting and informing residents for Category 1 buildings will be:

- Promoting building safety, including explaining fire safety measures within the building, advice on actions in event of fire, general fire safety advice, clear process for reporting fire and building safety risks and providing information on the roles and responsibilities of the Accountable Person.
- Develop and deliver a resident engagement strategy, to include a statement setting out how the Accountable Person will deliver resident engagement and two way communication, how the strategy will be assessed, and processes for residents to raise concerns and issues or make a complaint.

- Actively manage complaints and concerns of residents, through processes for submitting and escalating concerns and complaints, including how information and data on concerns and complaints will be recorded and responses provided, with information circulated to all residents and leaseholders.

93. In providing information to residents, the Accountable Person should be mindful of the needs of residents. Information should be provided in a way that is accessible and understandable. Where necessary, proportionate provisions will need to be made for vulnerable residents and those with additional needs. We would also expect the Accountable Person to take account of the language profile of residents and to provide suitable information to meet these needs. A nominated person would be able to receive and request information on behalf of a vulnerable person living in a building.

94. There would also be a requirement on the Accountable Person to provide additional information where requested to do so. We propose that the types of additional information covered by this requirement would depend on the Category of the buildings :

Category 2 buildings	Category 1 buildings
<ul style="list-style-type: none"> • Fire risk assessments • Planned maintenance and repair schedules • Outcomes of any inspection in relation to building safety • Details of fire protection measures and fire safety systems 	<p>In addition to the information set out for Category 2 buildings:</p> <ul style="list-style-type: none"> • Fire strategy for the building • Structural assessments • Planned and historical changes to the building

95. Further information can be found in Section 9 on pages 81 to 83.

Develop and deliver a resident engagement strategy

96. For Category 1 buildings, there will be an additional requirement to develop and deliver resident engagement, which should be genuine and ongoing. It is not sufficient to create a strategy and issue information on a regular basis – the Accountable Person will need to ensure they are working in partnership with residents to ensure the safety of the building.

97. We do not propose to be prescriptive in relation to how a strategy should be delivered, but will set out best practice approaches in guidance. Any strategy will have to provide the following information to residents (or their representatives) and leaseholders where they are not residents of the building:

- A statement setting out how the Accountable Person will deliver resident engagement (involvement and participation) in the building.
- How the Accountable Person will establish effective two way communication
 - Setting out what information will be shared with residents, when and through what mechanisms.
 - How residents can get more actively involved.
 - How residents can access additional information on request.
 - How the Accountable Person will report the results of Fire Risk Assessments, Safety Case Reviews, other relevant safety checks, the outcomes of any inspections or assessments by [the regulator].
- How the effectiveness of resident engagement will be assessed, reported back to residents and continuously improved.
- An explanation of how residents can raise concerns and issues with the Building Safety Manager and the Accountable Person, and the process for dealing with these and reporting back.
- The Accountable Person must also provide information on the process to escalate concerns to the regulator.
- Where there are **intermediary landlords** between the residents and the Accountable Person, the Accountable Person will need to articulate how they will ensure there is effective cooperation in relation to building safety.

98. Community Housing Cymru have already developed Safety First in Housing¹¹ which sets out how landlords in the Social Housing Sector will take forward resident engagement in relation to building safety. It is a useful starting point for all sectors.

Actively manage complaints and concerns of residents

99. For Category 1 buildings, we propose a requirement for the Accountable Person to establish a process for residents to raise building safety concerns. This would include how to make a formal complaint where a resident felt that a concern has not been addressed.

¹¹ [Safety First in Housing: Our shared responsibilities with residents as Housing Associations:](https://chcymru.org.uk/uploads/general/CHC-Safety-Transparency-Offer-ENG-v4.pdf)
<https://chcymru.org.uk/uploads/general/CHC-Safety-Transparency-Offer-ENG-v4.pdf>

100. We propose that the internal process for raising concerns would need to set out:

- The process for raising a concern
- The process for escalating a concern into a formal internal complaint
- How information and data will be recorded in relation to complaints and concerns raised
- How responses to concerns and complaints will be provided to the complainant
- How the assessment of the concern and decision making around any action taken and rationale for that action will be recorded
- How information on all concerns and complaints will be reported back to residents and leaseholders
- Information on how to escalate a concern to the regulator

101. We do not propose that Category 2 buildings should be required to have such an extensive system in place, but would expect the Accountable Person to give due consideration to how residents might raise concerns with them.

102. For all residents and leaseholders, there would be a route of escalation to [the regulator] where the building safety concern is considered urgent.

Roles and Responsibilities of Residents

103. Just as there are roles and responsibilities for the Accountable Person, there will also be roles and responsibilities for residents as, in the vast majority of fires, it is the unsafe behaviour of people than can lead or contribute to fires and their severity, or the efficacy of evacuation procedures. The roles and responsibilities of residents should not be underestimated.

104. There are already existing duties placed on residents, landlords and regulators in relation to safety issues in a building. For example, leaseholders and residents are obliged not to make any structural alterations without prior permission and landlords are required to ensure their properties are safe and free from hazards. Landlords are able to access properties to undertake inspections and to carry out works, but can only do so where they have given adequate notice.

105. We believe, that in all multi-occupied buildings, there should be additional responsibilities for residents in order to support the safety of the building for all. Further detail is provided in the White Paper on pages 86 to 87. We propose the following requirements on residents and intermediary landlords:

- Requirement to cooperate with the Accountable Person in fulfilling their duties, including providing access to their property for safety checks or work to be carried out (with reasonable notice) and providing reasonable information on works undertaken within their properties.
- Requirement to not knowingly breach the **compartmentation** of their property without sufficient fire stopping.

Escalating Complaints to the Regulator

106. We are proposing there is 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.

107. The Regulator will have a role where dutyholders are not appropriately fulfilling their duties and meeting responsibilities. There are a number of ways this might be brought to the regulator's attention, including:

- Complaints from residents
- Repeated failure to comply with required duties
- Concerns raised by dutyholders themselves
- A significant incident occurring in a building registered to them
- Opinion following inspections.

108. How these will be dealt with will depend on the nature of the failure and which dutyholder is at issue. Further detail, is in pages 87 to 89 of the White Paper.

Disability, Evacuation and the Law

109. Current law places a legal duty on responsible persons to provide adequate means for emergency escape in the event of fire for all building occupants¹². In a workplace, this commonly involves preparing a **personal emergency evacuation plan (PEEP)**.

¹² [The Regulatory Reform \(Fire Safety\) Order 2005](https://www.legislation.gov.uk/uksi/2005/1541/contents/made):
<https://www.legislation.gov.uk/uksi/2005/1541/contents/made>

110. However, PEEPs rely on the availability of trained staff to assist the evacuation. Such support is unlikely to be available in a bloc of flats with no staff on the premises. It will often be necessary for firefighters to rescue individuals who cannot leave the premises unaided. To do so, they need to know their location in the building and the nature of any disability the individual has.
111. We therefore propose that residents should have the right to supply these details to the Accountable Person, who would be under a duty to collate them, and supply them immediately to the Fire and Rescue Services (FRS) in the event that an evacuation of the building was necessary. There would be no obligation on residents to provide such information, although the Accountable Person would be required to treat all information they receive in confidence and to disclose it only to the FRS.
112. Further information is in pages 89 to 90 of the White Paper. The consultation questions we are asking on this Section are numbers 70 to 86.

Section 9: Raising Concerns

113. This Section sets out how we would expect concerns to be escalated and refers to concerns in relation to ***whistleblowing***, as well as escalating residents' concerns where internal resolution is not working.
114. As part of the wider cultural and behavioural shifts required under the proposed new regime, it is important that those working under it feel safe to raise concerns if they see things that are going wrong or responsibilities that are not being met. The new Building Safety Regime aims to cultivate a 'just' culture: the ability to raise concerns freely and openly should be supported and encouraged.
115. It is important to ensure there are legal protections in place for those who decide to raise concerns. More information on our proposals and the protections afforded to workers when reporting building safety concerns under the new regime are in pages 91 to 92 of the White Paper.
116. The consultation question we are asking on this Section is number 87.

Section 10: Regulating the Building Safety Regime

117. Establishing clear lines of accountability is only one side of the coin. For it to be meaningful, it has to result in better systems of holding those accountable to their duties and be able to demonstrate consequences for failing to comply.
118. The key to ensuring the new regime will be successful will be its effective regulation and a key driver for adoption will be the ability of the Regulator to establish itself as an authoritative and respected presence. The Regulator must

also be able to impose sanctions that reflect the importance of compliance with the new regime and to signal the change in attitude and approach to building safety under the new regime.

119. The agreed model for the new Building Safety Regulator, where it will sit, how it will be structured and funded, and the sourcing of necessary capacity and expertise is still to be determined. This is a critical area for consultation and, for the purposes of this consultation, we set out the key role, functions and potential options for a regulatory model.

120. A high-level summary of some of the information from Section 10 is provided here, but greater detail is available on pages 93 to 109. The paragraphs below include details on the following:

- The current regulatory system (section 10.2);
- How existing regulators should work together (section 10.3);
- Our proposals for the objectives and functions of the new regulatory model (section 10.4);
- Proposals for a regulatory model for the new Building Safety regime (section 10.5);
- Consideration of a regional or national approach (section 10.6);
- Sanctions and enforcement proposals (section 10.7); and
- Proposals for a Joint Inspection Team (section 10.8).

Regulatory Objectives and Functions

121. The key aim of the regulator will be to ensure the safety of residents and others in and around buildings by holding dutyholders to account in performance of their duties. We propose that regulators will have nine core functions that can be grouped into three broad regulatory objectives:



122. The nine core functions are briefly set out below, with further information in the White Paper on pages 97 to 98:

- Oversight: monitoring effective operation of the regime
 - Inspecting buildings
 - Ensuring competence
 - Setting safety standards and policy direction
- Collaboration: working with others to achieve regime objectives
 - Working with others
 - Public engagement / education
 - Public accountability
- Compliance: ensuring adherence to regime requirements
 - Dealing with complaints
 - Investigations and enforcement
 - Governance considerations

A Regulatory Model for the Building Safety Regime

123. As outlined in Section 6, local authority building control will take on sole responsibility for regulation of the design and construction phase. The information below deals exclusively with the occupation phase.
124. Establishing an effective regulatory system is critical to the success of the new regime. Whilst it is one of the most important aspects of our new approach, it is also one of the most complex. We want to consult extensively on this to ensure we adopt the right approach.
125. Our Position Statement¹³ published in June 2020 proposed two potential options – a single regulator or multiple regulators.

A Single Regulator

126. There are a number of potential options under the umbrella position of a single regulator. While this would help to streamline regulation of what is a complicated existing system, a single regulator is going to need to draw upon the expertise and technical experience of existing authorities. Options for a single regulator include:

- A new national building safety regulator

This would potentially provide a streamlined process, centralising oversight and enforcement in one body. It would be easier for dutyholders and others to access and understand the regulatory landscape and provide independence from existing authorities. Establishing a new body might make it easier to meet capacity and capability requirements, but would have significant cost implications.

- One lead regulator

This would see one of the existing authorities (the Local Authority or the Fire and Rescue Authority) become the lead regulator. There would be capacity and expertise considerations as neither option have blanket expertise to cover the regime alone without the need to develop and bring in additional expertise and resources.

¹³ [Building Safety position statement](https://gov.wales/sites/default/files/publications/2020-06/building-safety-position-statement.pdf): <https://gov.wales/sites/default/files/publications/2020-06/building-safety-position-statement.pdf>

Multiple Regulators

127. Whichever regulatory model is opted for, the reality is that the existing enforcement bodies will retain existing powers and continue to have a critical role to play in the new regime. The options for multiple regulators include:

- A concurrent regulatory regime

Rather than significantly reform the existing model, this option would maintain it but improve identified deficiencies to strengthen the regulatory regime going forward. In addition, there could be stronger information sharing and collaboration agreement to facilitate a joint approach.

- Coordination and oversight arrangements

This option replicates the one above but also establishes a joint committee with representatives from regulatory authorities, industry and potentially representatives from the sector (for example, builders/developers, building managers/managing agents and residents). This “committee” would have a coordination function and essentially review and monitor the new regulatory regime and ensure that it is meeting its objectives and discharging its functions in accordance with agreed frameworks.

128. More detail on these options are set out in pages 99 to 102 of the White Paper. However, these options are not exhaustive and we are seeking your views on alternative workable models that we could also consider.

Consideration of a Regional or National Approach

129. The geographic spread of buildings is a consideration for regulation, especially during the occupation phase. Whilst the vast majority of Category 1 buildings are concentrated in Cardiff and Swansea; Category 2 buildings will probably be more evenly spread across areas.

130. We will need to consider whether the regulatory model we adopt in Wales could operate on a regional or national level. As an example, a regional model could reflect the Fire and Rescue Authority areas, or be based on the proposed economic areas of the Local Government and Elections (Wales) Bill/Act.

131. We already have existing examples of a regional approach to regulation, such as the Shared Regulatory Services (SRS) providing regulatory services that cover the council areas of Bridgend, Cardiff and the Vale of Glamorgan.

132. Any level of regional working would need to allow for the ability to capture, understand and change between a local, regional and national focus. This means being able to understand the picture in each local authority area as well

as ensuring this local information is shared in such a way that it is able to also build a regional and national picture of building safety in order to inform guidance and advice on a pan-Wales basis. Whilst this consideration comes later in our work to identify a viable regulatory model, it is something we need to consider and we would like to hear your views.

Sanctions and Enforcement

133. Our proposals to improve compliance and strengthen enforcement and sanctions within the new Building Safety Regime are set out in section 10.7 of the White Paper.
134. We want to see a system where regulatory action is the last resort, because buildings comply with exacting standards and managed with the safety of residents at their heart. We will produce guidance to support those with legal responsibilities to be clear about their roles and responsibilities. Where there is failure in the system, this should initially be addressed quickly and informally through dialogue and support.
135. We anticipate there will be a proactive inspection and monitoring programme, which will require prioritisation based on risk. Where enforcement action is necessary, it should be taken forward swiftly, but with the option for support and informal action ahead of formal enforcement action. However, we believe there should be greater consistency in terms of action taken, so we are seeking views on establishing a framework of enforcement actions available. The proposed framework is below:

Action		Description
Across the Life Cycle	Ongoing Dialogue	Site Visits Informal dialogue
	Minor/ Emerging Issues	Agreed action plan The relevant dutyholder and enforcing body would agree a schedule of remediation work required and timescales by which to complete it. Failure to adhere to such a plan could be grounds for escalating enforcement action.
	Medium Risk/ Action Required	Enforcement Notice As happens now, an Enforcement Notice would be required to set out: <ul style="list-style-type: none"> • what regulation(s) the dutyholder was in breach of • the nature of the hazard(s) as a result of that breach • the nature of remedial action (but not necessarily a prescribed course of action) for the order to be revoked; and • the dates when action is to be started by and completed.

	Action	Description
<i>During Design & Construction</i>	High Risk/ Urgent Action Required	<p>Stop Notice</p> <p>A Stop Notice could be issued where an Enforcement Notice has been contravened or the work, in contravention of the Building Regulations, presents a serious risk of harm to people in or about the building if the building were used.</p> <p>As happens now, a Stop Notice would set out:</p> <ul style="list-style-type: none"> • what regulation(s) the dutyholder was in breach of • the nature of the hazard(s) as a result of that breach • the nature of remedial action (but not necessarily a prescribed course of action) for the order to be revoked; and • the dates when action is to be completed by.
<i>During Occupation</i>		<p>Emergency Remedial Action</p> <p>As can happen now, Emergency Remedial Action could be undertaken by the Local Authority where an Enforcement Notice has been contravened, for example the works have not been undertaken; and the risk is so great that it presents a serious risk of harm to people in or about the building if the building continued to be used without the defect being resolved.</p> <p>As happens now, the Emergency Remedial Action would set out:</p> <ul style="list-style-type: none"> • what regulation(s) the dutyholder was in breach of • the nature of the hazard(s) as a result of that breach • the nature of remedial action required; and • an indicative cost range to remediate the building.
<i>During Occupation</i>		<p>Emergency Prohibition Order</p> <p>As happens now, an Emergency Prohibition Order imposes prohibitions on the use of residential premises or part of premises.</p> <p>As happens now, a Prohibition Order would set out:</p> <ul style="list-style-type: none"> • what regulation(s) the dutyholder was in breach of • the nature of the hazard(s) as a result of that breach • the nature of remedial action required for the order to be revoked; and • dates when action is to be started by and completed.

Joint Inspection Team

136. There are steps we can take to prepare for the new regulatory regime before it is established. We propose to establish a Joint Inspection Team (JIT) to work alongside local authorities to help them enforce against landlords / responsible parties using existing powers. The JIT would be a multi-disciplinary team representing expertise from the existing enforcement bodies.
137. The JIT would accompany local authority staff to high rise residential buildings to inspect buildings, report on the state of the building and identify any hazards or defects that could form the basis for enforcement action. The team would then advise the local authority on how to take enforcement action if appropriate. This is similar to an existing JIT that has been established in England.

138. We propose the Welsh JIT would be established for an initial period of two years. Once the new regime is established, the team could continue to support the regulatory model by continuing to inspect buildings and reporting to the joint committee. Further information is in pages 107 to 108 of the White Paper.

139. The consultation questions we are asking on this Section are numbers 88 to 103.

Section 11: General requirements in relation to Fire Safety Equipment

140. This Section sets out the current position in Wales in relation to fire safety equipment in residential buildings. For example, since 1992, all new build residential properties are required to have at least one mains-powered smoke alarm on each floor. There are additional requirements in the rental sector, as detailed in the White Paper on pages 110 to 112.

141. There are wider requirements in relation to fire safety equipment in residential buildings in Scotland. Legislative changes in Scotland, which come into force there from February 2021, mean all domestic residential properties will require:

- One smoke alarm installed in the room most frequently used for general daytime living purposes;
- One smoke alarm in every circulation space on each storey, such as hallways and landings;
- One heat alarm installed in every kitchen; and
- An interlinked and mains powered smoke or heat alarm system must be fitted in a property and there should be adequate carbon monoxide protection. Such a system will trigger very alarm if one alarm is activated, meaning residents are alerted immediately in the event of a fire.

142. As we are reviewing building safety in relation to fire risk, this is an opportune time to consider if there are further steps we can take to reduce the risk of fire in all residential dwellings in Wales. The balance is between making our homes safer and requiring homeowners to spend money to meet any new requirements.

143. We are considering whether the Welsh Government should pursue similar requirements and are interested in your views. A consultation question is at number 104.

Glossary

Term	Definition
Accountable Person	The Accountable Person will have legal responsibility for the safety of the whole building used for residential purposes.
Building Safety Manager (BSM)	The BSM will have closer day to day responsibility for management of the building and completing the more practical tasks that ensure the building complies with the regime's proposed requirements than the Accountable Person.
Compartmentation	Compartmentation is the capacity of the structure of a building to contain a fire where it originates for long enough to allow it to be extinguished.
Dutyholder	We are working with the UK Government to ensure consistency with England on the issue of Dutyholders. As such, the proposals in the UK Government's Draft Bill ¹⁴ will also apply in Wales, subject to the consent of the Senedd.
Enforcement Notices	Enforcement Notices during design and construction will require non-compliance to be rectified by a set date
Golden Thread	A living record of information about the building, which will support the ongoing management of the building. It will be kept in digital form to ensure those who need it most are able to access the information quickly and easily.
House in multiple occupation (HMO)	A house in multiple occupation (HMO) is a property rented out by at least 3 people who are not from 1 'household' (for example a family) but share facilities like the bathroom and kitchen. It is sometimes called a 'house share'.
Intermediary landlords	For example if a leaseholder is subletting to a tenant the leaseholder would also be required to cooperate and/ or facilitate cooperation
Key Dataset	A subset of information from the Golden Thread that will be helpful as a public record.
Multi-occupied residential buildings	Any building where there are two or more dwellings, regardless of whether there is a shared front door to the building.

¹⁴ [Draft Building Safety bill:](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/906737/Draft_Building_Safety_Bill_Web_Accessible.pdf)

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/906737/Draft_Building_Safety_Bill_Web_Accessible.pdf

Term	Definition
	For example, this could mean a house converted into two flats or a 'skyscraper' apartment block.
Personal emergency evacuation plan (PEEP)	A bespoke 'escape plan' for individuals who may not be able to reach an ultimate place of safety unaided or within a satisfactory period of time in the event of any emergency.
Safety Case	A Safety Case is "a structured argument, supported by a body of evidence that provides a compelling, comprehensible, evidenced and valid case as to how the Accountable Person is proactively managing and controlling fire and structural risks.
Stop Notices	Stop Notices during design and construction will require all other works to stop until the issues of serious non-compliance are addressed.
Whistleblowing	Whistleblowing is where a worker reports certain types of wrongdoing that affect public interest, including raising concerns that are in the benefit of public safety

Consultation Questions

Section 5: Setting out the Scope of the Building Safety Regime	
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.
Q 2.	Do you agree that there should be two 'Risk Categories' for the Building Safety Regime? Please your views.
Q 3.	Do you agree with the proposed scope of Category 1 buildings? Please support your view.
Q 4.	Do you agree with the proposed scope of Category 2 buildings? Please support your view.
Q 5.	Do you agree that licensed HMOs should be included within the scope of the Building Safety Regime?
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
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.
Q 8.	Do you have any other comments on the issues we have raised in this Section?
Section 6: The Building Safety Regime (Design and Construction Phase)	
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
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.
Q 11.	Do you agree that the broad duties set out are appropriate?
Q 12.	Are there any additional duties we should include? Please support your views
Q 13.	Do you agree that there should be a named individual identified where the dutyholder is a legal entity? Please support your views.
Q 14.	How effective are the existing arrangements for Local Authorities and Fire and Rescue Authorities to consider issues of availability of water during the preparation of Local Development Plans?
Q 15.	Should Fire and Rescue Authorities become "specific consultation bodies" as defined by the Town and Country Planning (Local Development Plan) (Wales) Regulations 2005?
Q 16.	To what extent do you agree with the proposed content of a Fire Statement?
Q 17.	Do you agree responsibility for the content of a fire statement should rest with the dutyholder?
Q 18.	Do you agree that Gateway Two should be a 'hard' stop point where construction cannot begin without permission to proceed? Please support your views.
Q 19.	Should the Local Authority Building Control Body have discretion to allow a staged approval approach? Please support your views.
Q 20.	What is an appropriate timescale for the Local Authority Building Control to respond to Gateway Two applications? Please support your views.
Q 21.	Should the Local Authority Building Control be allowed to extend these time scales? If so what would the circumstances be? Please support your views.
Q 22.	Do you agree that the Principal Contractor should be required to consult the Client and Principal Designer on changes to plans?
Q 23.	Do you agree the Principal Contractor should be required to notify the Local Authority Building Control of any proposed major changes before carrying out works?
Q 24.	Do you agree that the where major changes are made to the approved plans there should be a "hard" stop and work should not proceed until the revised plans have been approved by the local authority
Q 25.	What is an appropriate timescale for the Local Authority Building Control to respond to proposed major changes? Please support your views.
Q 26.	Do you agree that for new Category 1 buildings an Accountable Person must be registered before occupation of the building can begin?
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.
Q 28.	Should Local Authority Building Control be required to respond to gateway three submissions within a particular timescale? If so, what is an appropriate timescale?
Q 29.	Are there any circumstances where we might need to prescribe local authority Building Control's ability to extend these timescales? If so, please support your view with examples.

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?
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
Q 32.	Do you agree that Category 1 buildings undergoing major refurbishment should also be subject to the Gateway approach? Please support your views.
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.
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
Section 7: The Building Safety Regime (Occupation phase)	
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?
Q 36.	Do you agree with the proposed approach in identifying the Accountable Person? Please support your view.
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.
Q 38.	Do you agree that the default position should be that the Accountable Person is the freeholder?
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?
Q 40.	Do you agree with the proposed duties of the building safety manager for Category 1 buildings? Please support your view.
Q 41.	Do you agree with the proposed division of roles and responsibilities between the Accountable Person and Building Safety Manager?
Q 42.	Is the relationship between the Accountable Person and Building Safety Manager sufficiently clear? Please explain your answer.
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.
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.
Q 45.	Do you think that the different roles and responsibilities for Category 1 and Category 2 Accountable Persons are sufficiently clear and proportionate?
Q 46.	Are there any additional duties that should be placed on dutyholders? Please support your views.
Q 47.	Do you agree with our proposed fire safety outcomes? Please support your views.
Q 48.	Do you agree with our proposed overall purpose of a fire risk assessment? Please support your views
Q 49.	Do you agree with our proposed risk areas? Please support your views
Q 50.	Do you agree that fire risk assessments must be reviewed annually, and whenever premises are subject to major works or alterations for all buildings within scope?
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.
Q 52.	Do you agree that fire risk assessments must be permanently recorded?
Q 53.	Do you have any views about whether Accountable Persons or their employees should be precluded from conducting fire risk assessments themselves?
Q 54.	Do you have any views on enforcement or sanctions for non-compliance with regards to the Accountable Person?
Q 55.	Do you have any views on enforcement or sanctions for a person undertaking a fire risk assessment without suitable qualifications or experience?
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.
Q 57.	Do you agree with our proposal to create duties with regards to compartmentation on residents? Please provide information to support your views.

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?
Q 59.	What do you believe would be a reasonable timescale for existing Category 1 buildings to create a Safety Case?
Q 60.	Do you agree there should be a mandatory reporting duty on dutyholders in the occupation phase?
Q 61.	Which incidents/issues do you think should trigger such a duty and why? Please provide examples
Q 62.	Should there be a requirement for the Accountable Person to register under the building safety regime during the occupation phase?
Q 63.	Are the registration process requirements sufficient? Are there any others that should be included? If so, please outline and explain.
Q 64.	Should there be a requirement for duty holders (both the Accountable Person and the Building Safety Manager) to obtain a building safety licence in the occupation phase? Please explain your answer.
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)?
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?
Q 67.	Do you agree that there should be regulation of all residential property management? Please support your views.
Q 68.	What standards should those carrying out residential management functions meet? Should there be a differentiation between the standards required for those managing Category 2 buildings, and those managing unadopted spaces? Please support your views.
Q 69.	How could the issues of probity and responsibility be evidenced in such a system? Please support your views
Section 8: Residents: Roles and Responsibilities	
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.
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.
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)
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.
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.
Q 75.	Is there any other information that you think it would be useful to provide? Please support your views.
Q 76.	In what ways could an Accountable Person demonstrate that they have established effective two way communication?
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.
Q 78.	Do you think there should be any specific requirements to facilitate this? Please support your views.
Q 79.	What safeguards should be put in place to protect residents' rights in relation to this requirement? Please support you views.
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.
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.

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.
Q 83.	What roles and responsibilities are appropriate for Accountable Persons with regards to people who cannot safely self-evacuate? Please support your views.
Q 84.	Should Accountable Persons be required to collate details of all those who would require assistance?
Q 85.	Should Accountable Persons be required to provide this information immediately to the FRS in the event that an evacuation was necessary?
Q 86.	Should this be the case for all Categories of buildings? Please support your views
Section 9: Raising Concerns	
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.
Section 10: Regulating the Building Safety Regime	
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?
Q 89.	Do you agree with the list of key functions for the regulator as proposed?
Q 90.	Are there are additional functions which are not listed that you believe are required in order to achieve our building safety aims?
Q 91.	Do you think that some of these functions are more essential than others? Please explain your answer.
Q 92.	In your view, do any of the regulatory model options outlined provide a preferred approach to regulating the regime in occupation
Q 93.	Are there other regulatory models that are not presented here that we should consider? Please set out any alternatives.
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.
Q 95.	Do you agree that there should be a framework for escalating enforcement and sanctions? Please support your views.
Q 96.	Do the levels set out at Figure 13 sufficiently reflect these levels? Please support your views.
Q 97.	What penalties or offences should we consider being created as part of the enforcement and sanctions regime associated with building safety? Please support your views.
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.
Q 99.	What safeguards should be put in place to protect residents' rights in relation providing access to their properties? Please support you views.
Q 100.	Do you agree with the proposal to establish a Joint Inspection Team as outlined?
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.
Q 102.	Do you agree with the proposed composition of the Joint Inspection Team?
Q 103.	Are there other functions the Joint Inspection Team could perform in addition to those outlined (i.e. enforcement advice and evidence gathering)?
Section 11: General Requirements in Relation to Fire Safety Equipment	
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.