



Building a Safer Future: proposals for reform of the building safety regulatory system

A response from Midland Heart

July 2019



Topline

We support the Building a Safer Future proposals but would like to see greater detail on how they will be implemented and enforced. We must ensure we focus resources where they are needed most, and avoid creating a regime that impedes our ability to deliver desperately needed new homes.

Key points

- We should not include all forms of supported housing in the regime; instead it should focus on schemes where residents' vulnerabilities would impede their ability to respond quickly to an emergency
- The accountable persons regime must be underpinned by a robust system of accreditation, backed by investment in skills and training
- The building regulator needs sufficient resources to deliver its functions effectively, but the cost burden must be managed carefully to avoid disrupting our business model and reducing our development capacity
- Housing associations need stronger powers to gain access to private dwellings for safety interventions.

About Midland Heart

We are a leading housing organisation, delivering homes and services across the Midlands that enable people to live independently. We own and manage 33,000 homes and are dedicated to providing decent, affordable homes combined with excellent services to over 70,000 customers. Our stock includes 13 buildings which have six or more storeys and 280 supported living schemes. We offer a wide variety of supported living accommodation from extra care retirement schemes to temporary accommodation for people with a history of homelessness.

We pride ourselves on being a responsible landlord and working closely with residents to ensure they are as safe as they can be in their home. We have undertaken an extensive fire safety review to identify ways we can improve awareness and communication. We also have a dedicated team of in house fire risk assessors with extensive experience in fire safety. All team members have either achieved or are working towards accreditation with the Institute of Fire Engineers (IFE).

Fire and building safety are monitored at a senior level. We have robust controls in place, overseen by our Board which monitors building safety as a key component of our Corporate Risk Register. However, we know there is always more we can do. Our new Corporate Plan *Making What Matters Brilliant*, launched in April, sets out how we will continue to monitor developments and adopt new best practice as it emerges.

Introduction

We agree that fundamental reform of building safety regulation is needed and support the Building a Safer Future proposals. It is right that we should seek a consistent approach across the residential sector, from the relatively highly regulated social sector, to the relatively less regulated private sector. We accept the need to demonstrate greater accountability over building safety, but seek reassurance that we will have sufficient powers and resources to enforce the new regime effectively.

Detailed responses

1. Scope

We agree with the need for a clear scope of which buildings are included in the new regime and welcome the proposed 18m threshold, which recognises the fact that buildings of a variety of sizes can be complex.

The paper considers whether all supported housing should be included, given the relatively high rate of incidents. It acknowledges that the social sector is already closely regulated by the Social Housing Regulator. It is also worth noting that schemes offering care are also regulated by the Care Quality Commission.

Many of our supported living schemes are intensively managed with staff on site 24 hours a day, weekly housekeeping checks and monthly fire safety checks. There is a danger that an excessive focus on supported living accommodation could distract attention from other types of accommodation also in need of extra scrutiny, such as blocks of low rise general needs flats, which are also frequently used to house vulnerable people and can be challenging to manage.

The proposed definition of supported housing is too broad and risks introducing excessive and inefficient regulation. We would favour a narrower definition which includes only those schemes where residents' vulnerabilities would impede their ability to respond quickly to an emergency, such as accommodation in a residential care setting or HMOs providing supported living to those with complex needs.

2. Accountable people

We welcome the proposals to strengthen accountability through a new regime overseen by duty holders, accountable people and building safety managers. Where duties are discharged by a legal entity, there should always be a single accountable person either on the Board or at another appropriate senior level. In addition to this, we need to ensure additional checks are in place where the design and construction phases are all delivered within one organisation. Strong internal governance controls will be required to uphold the independence and accountability of duty holders.

The paper's emphasis on competence is encouraging but we would like to see stronger guidance on how high standards of competency will be upheld. We need a rigorous accreditation regime for building safety managers and others with overall responsibility for building safety. This should include a robust interview process similar to that currently conducted by institutions interviewing applicants for a professional membership. Cost must not be a prohibitive factor in gaining proper assurance of competency and Government will need to ensure skills accreditation is both accessible and affordable for both small and large organisations involved in construction and development.

We fear that, without proper controls, the new regime could lead to a major shortage of appropriately trained operatives, unhealthy levels of competition for people with the requisite skills and therefore rapid inflation in costs. Government should work with the building and fire safety training sector and skills and training providers, not just to determine the required competency standards, but also to ensure there is sufficient capacity to meet rising demand for trained fire engineers. This should include the provision of additional investment where required.

Finally, we need greater clarity on remits. If each building must have a named building safety manager, how many buildings can we reasonably expect one manager to be responsible for? It is important to understand this point so that we can gauge the depth of both operational and strategic oversight required and the associated costs.

3. The building safety regulator

We support the proposal to replace the current dysfunctional market in building control services with a new comprehensive building safety regulator which must offer robust oversight and enforcement. Given the broad range of functions proposed for this new regulator, it would be realistic to anticipate additional costs. But it is essential that a prudent approach is taken to avoid creating new financial burdens that could constrain housebuilding activity.

Additional costs should be introduced gradually as part of a careful transition to a new, more rigorous, regime. The transition period may need to be phased over a number of years. From the point of view of the social housing sector, it is also vital that any additional costs can be met within the Housing Benefit and Universal Credit regulations. All of our surplus is reinvested in new homes and any disruption to our business will impact on our development programme.

We support the proposed approach of using a mix of criminal and civil enforcement against those who fail to register a building with the new regulator, fail to comply with its conditions, or fail to secure appropriate permissions to undertake works. The severity of penalties needs to be communicated directly to accountable persons as part of a wider brief on how to comply with the new regime. We also strongly recommend that criminal sanctions are reserved for the most serious offenders. For example this could include those who have repeatedly failed to comply or wilfully

resisted fulfilling their duties, rather than those who may have failed to clearly understand their new responsibilities in the first instance.

4. Resident engagement

Resident engagement has been central to our approach to keeping buildings safe. Through our extensive fire safety review, we heard from 600 residents who shared their experiences and offered views on how we could improve. We publicise the details of our specialist fire safety team prominently on our website and have set up a direct email address residents can use to raise concerns. We carefully track the implementation of all fire safety actions and in staffed accommodation schemes we share the outcomes of Fire Risk Assessments and invite residents to meet and discuss them.

We believe we are already delivering against the principles of the approach advocated in the paper. We provide essential information proactively both online and through traditional platforms such as rent statements and posters. We offer more detailed information on request and provide clear routes of escalation through our well-publicised complaints process.

It is encouraging to see a clear recognition in the paper of the need to ensure residents cooperate with the accountable person and building safety manager. However, we do not feel that the proposed requirements go far enough, as there is no provision for stronger enforcement action against the small minority of residents who are obstructive towards safety interventions and put themselves and their neighbours at risk. We would like to see housing associations given similar powers as local authorities to apply for warrants of entry from the Magistrates Court. Currently housing associations have to resort to an injunction which is far less effective process. New powers issue warrants of entry could be introduced as part of the Government's proposed introduction of housing courts which is currently subject to consultation.

Above all, this programme of reform must offer a comprehensive approach. It is not possible to fully ensure the safety of buildings without being able to gain access to private dwellings to conduct gas and electrical safety checks. It is essential that the new regime not only improves accountability of those responsible for designing, constructing and managing buildings, but also those that live in them, who have an equally important role in making sure they remain safe.