GREATER MANCHESTER
FIRE AND RESCUE SERVICE

Building a Safer Future: response of Greater Manchester Fire and Rescue Service

Greater Manchester Fire & Rescue Service (GMFRS) welcomes the opportunity to contribute to the creation of a new building safety regime, and believe we are uniquely placed to share our experience and understanding.

Since the Grenfell Tower fire, we have inspected all of the high-rise residential buildings in Greater Manchester and have used our powers to require identification and assessment of cladding systems. We did not limit our focus to Aluminium Composite Material (ACM) cladding, but considered all aspects of fire safety including compartmentation, other cladding systems, and structural defects. We have overseen the implementation of interim measures in over 100 buildings where changes to the evacuation strategy have been required. We continue to work intensively with housing providers, managing agents and affected residents to monitor buildings and ensure the relevant safety improvements are made. We have continued to share advice from Government with housing providers and managing agents, to support their communication and engagement with residents.

GMFRS has also been a key part of the High Rise Task Force established by Greater Manchester Mayor Andy Burnham and led by Salford City Mayor Paul Dennett. The Task Force has brought together the fire and rescue service, local authorities, MHCLG representatives, landlords, building control, universities and other specialists to provide fire safety assurance to people living in high-rises across Greater Manchester. The work of the Task Force has been wide-ranging, from running regular events for residents to voice their concerns, to piloting joint inspections with building control officers and the Health and Safety Executive on behalf of the Joint Regulators Group.

Our proposals for a new building safety regime are included in the main body of this document. The answers within the appendix have been provided to support any statistical analysis of the specific questions.

Executive Summary

The Building Control process is not fit for purpose and needs reforming beyond the narrow scope of the new proposals.

The scope of any new regime should be determined by a building's risk, not by its height. Applying a height threshold will create a two-tier system of standards in design, construction, and building safety management.

A new national body that oversees the framework for improving building safety is welcomed by GMFRS. The scope of this new body's remit should go beyond high-rise residential buildings above 18 metres, and include all high-risk buildings.

However, this new national body should not be responsible for inspections and enforcement. These activities should be the responsibility of newly created Joint Competent Authorities (JCAs) in line with Dame Judith Hackitt's recommendations. JCAs would consist of fire and rescue authorities, local authority buildings standards, and the Health and Safety Executive. As part of the JCA, fire and rescue authorities should be statutory consultees for all new developments, regarding the requirements for fire service access and water supply. It is essential that fire and rescue authorities are funded appropriately for any new work, or that it is delivered on a full cost recovery basis.

The fire at Grenfell Tower demonstrates the importance of a knowledge and understanding of the features of a building, and how it should perform in a fire. Any disapplication of the Fire safety Order to the common parts of multi-occupied residential buildings would remove an essential link between a fire and rescue service's protection activity and its response functions, putting firefighters and residents at increased risk.

GMFRS welcomes the principle that ongoing fire safety responsibilities throughout the life cycle of a building should be clear to dutyholders, with sanctions for those who fail to fulfil them. However, the current proposals for an 'accountable person' will not address the significant problem of financial liability for essential safety improvements. The effective management of fire safety in buildings requires all involved to have an appropriate degree of knowledge and understanding of key fire safety provisions relevant to their role.

Improvements are required sooner than new legislation would facilitate, and can be made through regulations utilising the existing legislative framework.

An alternative interim approach

It is unclear how the proposals contained within the consultation document will be introduced and how the existing legislation will be affected. It is apparent that for many of the proposals, primary legislation will be required. However, the consultation document is vague as to whether there will be a new mechanism under the Building Act and Regulations, Fire Safety Order (FSO), CDM Regulations and Housing Act 2004, or entirely new legislation for in-scope buildings. The creation of a new national body will be complex and time-consuming.

GMFRS believes that improvements are required sooner than new legislation would facilitate, and can be made through regulations utilising the existing legislative framework. Whilst this approach would not deliver all of the reforms proposed by the Independent Review of Building Regulations and Fire Safety, we believe it would deliver some immediate benefits across the industry and for a wider scope of buildings. It would start the process of driving culture change and ensuring greater compliance, and afford Government adequate time to develop new proposals.

GMFRS is therefore calling for changes to be made to the Building Control system and the requirements of the FSO.

The Government should introduce Regulations under the Building Act 1984 to deliver the following improvements to the Building Control system for all new developments:

- A requirement for full plans on all new developments.
- A requirement for all major changes to be documented and reported to the Building Control body.
- The introduction of 'stop' powers for all Building Control bodies.
- The removal of provisions that suspend local authority enforcement powers on developments where an initial notice has been served.
- An improved sanctions regime, including the ability to prohibit further work or serve improvement notices.
- The removal of limitation periods for enforcement action by local authorities including prosecutions.
- An enhanced requirement to record, store and provide information under Regulation 38. This will provide a golden thread for all developments.

This approach will improve the current Building Control system to ensure safer buildings across a wider scope and mitigate the effects of a developer being able to choose their own regulator.

The Government should introduce regulations under the FSO for all multi-occupied residential buildings. These regulations will require:

- The responsible person to be identified along with all other persons with responsibility (in accordance with Article 5) and the extent of their responsibilities. This should be displayed in the premises with contact details.
- The Evacuation Strategy for the building to be published and displayed.
- The development of a Resident Engagement Strategy and ensure that specified information is available to residents.
- a suite of information as part of a fire safety case including -
    - The Fire Risk Assessment
    - Any Fire Engineering Strategy
    - The Fire Safety Arrangements
    - The details of all fire safety features, their location and maintenance requirements
    - Testing and maintenance arrangements including testing records
    - A record of all works undertaken at the premises with the potential to impact on the passive fire safety measures
- An obligation on residents to co-operate and co-ordinate with the responsible person/s for the building, and an obligation not to interfere with the fire safety measures in the premises.

This approach would benefit existing buildings across a wider scope in advance of wider legislative reform. It would not impose a significant or disproportionate cost impact as it would enhance and formalise existing requirements and good practice, and drive compliance through culture change.

Summary of our recommendations and findings

1. **Improvements are required sooner than new legislation would facilitate, and can be made through regulations utilising the existing legislative framework. They would deliver some immediate benefits across the industry and for a wider scope of buildings. They would help drive culture change, ensure greater compliance, and afford Government adequate time to develop new proposals.**
2. **The Building Control process is not fit for purpose and needs to be reformed as a whole, beyond the narrow scope of the proposed new regime.**
3. **The scope of any new regime should be determined by a building's risk, not by its height.**
4. **Even if the scope of the new regime were expanded, the proposals would not adequately address the risks in specialised housing and care homes.**
5. **If the Government does not wish to consider building safety in the whole, but limit the scope to the regulation of high-rise residential buildings, then the height threshold should be reduced to 11m.**
6. **The Fire Safety Order (FSO) provides an adequate framework for managing fire safety in high-rise buildings, where it is complied with, and those responsible for the building understand their obligations and have the requisite competency to meet those obligations.**
7. **The FSO and the Housing Act 2004 complement each other to ensure the safety of relevant persons in multi-occupied buildings. The mechanism for ensuring this is through adequate guidance and effective partnership working.**
8. **If the FSO were to be disapplied to the common parts of multi-occupied buildings, members of the public living in these buildings would be at increased risk.**
9. **The disapplication of the FSO would leave short-term lettings inadequately regulated and remove the statutory requirement for persons with responsibility to co-operate and co-ordinate. This would potentially create significant risks about the management of fire safety arrangements for the building.**
10. **The fire at Grenfell Tower demonstrates the importance of a knowledge and understanding of the features of a building, and how it should perform in a fire. Any disapplication of the FSO to the common parts of multi-occupied residential buildings would remove an essential link between fire and rescue service's protection activity and response functions. This will reduce our ability to monitor and understand conditions within a building, negatively affecting our response to a fire and placing the public and firefighters at greater risk.**
11. **The definitions within the FSO should be revised and updated, including a statutory definition of 'common parts'.**
12. **The Government should produce an HM Government Guide for Fire Safety in multi-occupied residential buildings. The guidance should**

include, as a minimum, all flats, irrespective of height and tenure, and should specifically address all uses including serviced apartments and short-term lettings, where these form part of the use of the building.

13. **There should be a requirement in all multi-occupied buildings for the responsible person to be clearly identified and for this to be recorded and published alongside the identity of all other parties with responsibility for fire safety within the building.**
14. **A new national body that oversees the framework for improving building safety is welcomed. The scope of this new body's remit should go beyond high-rise residential buildings above 18m, and include all high-risk buildings.**
15. **This new national body should not be responsible for inspections and enforcement.**
16. **Inspection and enforcement should be the responsibility of newly created Joint Competent Authorities (JCAs), consisting of fire and rescue authorities (FRAs), local authority buildings standards, and the Health and Safety Executive. Where there are serious concerns about fire safety, the legislation should also allow the JCA to classify a building as a 'high risk residential building' to bring it within scope of the regime.**
17. **The new national body should:**
    a. **Oversee and where necessary prescribe guidance, and ensure guidance is reviewed on a regular basis.**
    b. **Oversee and regulate testing and certification regimes.**
    c. **Oversee competency across industry and investigate competency-related complaints.**
    d. **Operate a 'licensing' regime for Building Safety Managers.**
    e. **Act as the relevant body for whistleblowing concerns.**
    f. **Host and maintain a national digital platform for storage of safety case information and the golden thread (with local management).**
    g. **Provide a dispute resolution mechanism aligned to a similar process contained within Article 36 of the FSO.**
    h. **Monitor the effectiveness of the JCA**
    i. **Have the authority to intervene in management and direct enforcement in the event of serious concerns.**
    j. **Have oversight of the regulatory system and be required to carry out periodic reviews that are reported to Parliament.**
    k. **Be required to keep regulations and guidance under regular review.**
18. **Many of the principles within the proposals can be delivered at an early stage through effective partnership arrangements as a precursor to a JCA with guidance from the Joint Regulators Group.**
19. **The proposal to introduce specified duty holders with clear legal accountabilities at stages of the buildings life cycle is welcomed. However, this should be applied wider than buildings above 18m.**

20. **The proposals for named individuals to be accountable where the dutyholder is a legal entity, may not be the most appropriate mechanism for embedding accountability, and it is not clear how this would work within all structures. The current mechanisms available within the Health and Safety at Work Act (s.37) and the FSO (Art. 32(8)) might be more appropriate.**
21. **The principle that ongoing fire safety responsibilities throughout the life cycle of a building should be clear to dutyholders is welcomed, as are the sanctions for those who fail to fulfil these responsibilities.**
22. **The concept of an 'accountable person' for buildings in occupation is logical and would assist in ensuring clearly defined responsibilities. However, the proposals do not identify how they differ from the current responsibilities imposed by the FSO.**
23. **The current proposals for an 'accountable person' will not address the significant problem of liability to meet the cost of works.**
24. **If the dutyholder regime is only applied to a limited number of buildings, it will create a two-tier system of management of occupied buildings.**
25. **This issue could be addressed across all multi-occupied residential buildings via regulations introduced under the FSO requiring the identity of all responsible persons to be displayed in the common parts of complex properties (including multi-occupied residential and mixed-use high-rise building), and the extent of their responsibilities.**
26. **There is an important distinction between responsibility and liability. If it is found that a building has been constructed incorrectly, the liability for meeting the costs of the remediation work is legally complex and time-consuming. Simplifying and making consistent the governance and responsibilities of buildings, both in scope and other residential buildings, would enable a clear understanding for all stakeholders. However, without wider reform of the leasehold system, this will not prevent difficulties related to funding the work.**
27. **A Building Safety Manager (BSM) should be required to demonstrate competency in relation to fire safety management.**
28. **The proposals do not make clear whether the BSM role is envisaged to be undertaken by a legal entity, an individual, or either. It is not clear, therefore, how the registration process would work, and how this would impact on existing arrangements and contracts for the management of buildings**
29. **A scheme of 'licensing' or 'registration' of BSMs based on competency, would offer a more proportionate and effective approach than assessing this on a building-by-building basis. There should be a requirement imposed on accountable persons to only employ a registered or licensed BSM**.
30. **If a regulator is to have the ability to appoint a BSM, this should be a measure of last resort. In the first instance, there should be a mechanism whereby a direction can be issued to the accountable person to appoint a licensed BSM within a specified time frame.**

31. **More consideration needs to be given as to how any appointment of a BSM by a regulator would work in relation to the other management functions in multi-occupied residential buildings.**
32. **The effective management of fire safety in buildings requires all involved to have an appropriate degree of knowledge and understanding of key fire safety provisions relevant to their role. Further competency requirements for roles below the BSM must be considered and implemented.**
33. **The introduction of the Gateways and the designation of fire and rescue authorities (FRAs) as statutory consultees for planning purposes is welcomed and this should go beyond the narrow scope of the current proposals.**
34. **At the planning stage, FRAs should be statutory consultees as part of the Joint Competent Authority (JCA) for all new developments (residential and non-residential) regarding the requirements for fire service access and water supply.**
35. **As a minimum, GMFRS supports the proposals for FRAs to be statutory consultees for buildings in scope and within a vicinity of 150 metres of buildings in scope.**
36. **FRAs should be funded appropriately for this new work or the work should involve full cost recovery as it does in relation to other planning related issues.**
37. **The Fire Statement should consider not only fire response requirements for the proposed development but also how this will impact nearby buildings / infrastructure. This would help develop a focus on the resilience of buildings, not just the ability of occupants to evacuate / be rescued should a fire occur.**
38. **The principles of enhanced regulatory oversight at the design stage and a 'hard stop' prior to construction starting are welcomed. However, this should not be restricted to buildings over 18m, but form part of wider reform of the Building Control system.**
39. **A requirement to submit full plans for any new development should be introduced as part of reform of the Building Control System.**
40. **The co-ordination of this information is key. The person responsible for this can be determined on a development-by-development basis, providing the role is clearly identified, allocated to one dutyholder and documented.**
41. **For certain developments, a staged approach to construction would be appropriate. It should be incumbent on the Client / Principal Designer to set out at an early stage, in discussions with the regulator (the JCA), that an application for a staged approach will be made. A staged approached must be agreed by the JCA prior to any work commencing.**
42. **Any new regulatory regime must provide effective sanctions and a disincentive to non-compliance. Any work carried out without, or not in accordance with, the relevant approvals should be pulled down or removed, where this is necessary and proportionate. The regulator (the**

JCA) should have the power to prohibit further work being undertaken until non-compliant work has been rectified, where this necessary and proportionate.

43. **The regulator (the JCA) should be required to respond to Gateway 2 applications within a prescribed timescale, but any timescales should reflect the complexity and resourcing requirements, and should be variable dependent on the size of the development.**
44. **Once construction has commenced, changes should not be made by the Principal Contractor without consultation with, and agreement by, the Client and Principal Designer. This should be documented.**
45. **Any major changes should be reported to and approved by the JCA as the regulator, before the work is carried out. Any application for approval of a variation should be countersigned by the Principal Contractor and Principal Designer with a statement as to what impact it has on the original design specifications.**
46. **A provisional registration should be granted following approval at Gateway 2 that would set out the key conditions to be met through the design and construction phase, and specify the relevant dutyholders.**
47. **The idea that a failure to register a building should be a criminal offence is supported, but this needs to align to key safety requirements.**
48. **Partial occupation should be allowed where there are adequate fire safety provisions and management of the arrangements. This could be effectively managed through an approach of provisional registration and a 'certificate to occupy', as the register could be updated with the parts of the building that can be occupied. This approach should also incentivise additional safety provisions such as sprinklers.**
49. **Consideration should be given to a requirement for any premises that has not been through Gateway 2 to provide full plans and enhanced information at Gateway 3.**
50. **The proposals for a further gateway prior to occupation and the principles of registering a building with the regulator (the JCA) and specifying the dutyholder are welcomed.**
51. **A clearer process for the transfer of accountability, and declarations that construction has been undertaken in accordance with the plans, will assist in driving compliance across the sector. However, this should form part of reform of the Building Control process and not be restricted to a narrow scope of buildings based on height thresholds.**
52. **Further embedding safety requirements in the management of buildings is welcomed. However, the implementation of a safety case approach to a narrow scope of buildings will create a two-tier system of safety and management. These proposals could instead be brought forward as regulations made under the FSO.**
53. **It is appropriate for the new national body to hold and maintain a register, but regulation should be undertaken locally by a JCA.**
54. **The principle of scrutiny by regulators is sound, but it is unclear how the proposal that the Safety Case must be scrutinised before a**

certificate is issued will work where partial occupation may be allowed. The Safety Case should not be seen as separate to the other requirements, but should be a document that evolves through all stages of the process.

55. **The proposed content of the safety case is generally sound but many elements would not be available prior to occupation. The initial Safety Case should set out the management arrangements for the building and the key safety features, and this could form part of provisional registration.**
56. **Care should be taken to ensure that other key and safety critical elements of building management are not neglected and that a holistic approach is taken.**
57. **The registration scheme should be structured to allow the JCA as the regulator to determine the length of the certificate using a risk-based approach. This approach would incentivise enhanced safety systems such as the use of sprinklers.**
58. **The scheme should allow for periodic reviews where this is considered necessary, and the JCA, as the regulator, should have the ability to direct a full review of the safety case at any point during the registration period.**
59. **The principle of applying conditions is supported, but the content of the conditions requires more detailed analysis and wider consultation. The current proposals appear to cover a number of areas where other regulations apply and this is potentially problematic from a regulatory enforcement perspective. Licence conditions should not duplicate existing statutory requirements.**
60. **To mitigate the cost of crucial safety work, the Government should consider a statutory mechanism to require freeholders to provide funding for safety critical works and recover these over an extended period.**
61. **It is disappointing that the Government is still ignoring the evidence regarding the effectiveness of sprinklers. Gateway 3 is an opportunity to promote the benefits of sprinklers.**
62. **The transfer of a building safety certificate from one person to another should be via the new national body, through the JCA. The JCA should have the opportunity to vary the conditions of the registration where necessary.**
63. **The registration scheme for issuing of a building safety certificate provides a clear and transparent route for compliance. The scheme will provide both residents and the accountable person with clear guidance on their obligations in relation to keeping the building safe and a clear and transparent route for compliance by both parties.**
64. **The proposal to have a "Golden Thread" of information is welcomed. The government should mandate Business Information Modelling (BIM) standards for new buildings, from the design stage, through construction, to occupation, for the life of the building.**

65. **To mandate this for existing buildings may be too onerous and the information required should be determined by the JCA on a case-by-case basis using a risk based approach.**
66. **The principles of a key dataset are welcomed. However, not all of the information proposed should be publicly available as this will raise issues in relation to commercial confidentiality, privacy (particularly where the accountable person is a leasehold management company and / or a named individual is required) and security.**
67. **Providing only 'minimal information' on safety related features within the key dataset is not welcomed. Information on fire safety features should be comprehensive.**
68. **A new robust system to ensure that relevant building safety information remains easy to attain and understand for a building's whole life is welcomed.**
69. **To mandate this for existing buildings may be too onerous. The requirement for this information should be determined by the JCA on a risk basis.**
70. **Mandatory occurrence reporting is welcomed. Non-reporting should be regarded as non-compliance and sanctions applied appropriately.**
71. **Protection for whistleblowing is welcomed.**
72. **GMFRS supports proposals to ensure that information is available to and accessible by residents.**
73. **The provision of information to residents should be introduced through regulations made under the FSO and introduced at an early stage for all multi-occupied residential buildings.**
74. **The principle of a resident engagement strategy is sound but requires further consideration to ensure it as appropriate for all tenures, models of ownership and occupation of buildings.**
75. **GMFRS supports the proposals for statutory requirements for residents and this should include a general obligation to co-operate and co-ordinate, and specific obligations not to interfere with fire safety features.**
76. **Residents' responsibilities should be created through regulations made under the FSO and introduced at an early stage for all multi-occupied residential buildings.**
77. **The requirements for resident engagement and responsibility should be enforced through the JCA and the FRA for buildings out of scope.**
78. **Robust sanctions and enforcement options are necessary to drive compliance and act as a deterrent to non-compliance.**
79. **The appropriate enforcement action should be determined in relation to the gravity of the non-compliance**
80. **The proposed criminal offences are appropriate but consideration needs to be given to the potential sentences.**
81. **Civil Penalties are appropriate for Dutyholders involved at the Design and Construction phase, as these are generally commercial and profitmaking.**

82. **Civil Penalties are unlikely to be appropriate at the occupation phase, as this would ultimately affect residents.**
83. **Any limitation period required for enforcement under the Building Act should run from discovery.**
84. **The limitation period for prosecutions under the Building Act should be removed entirely.**

Stronger requirements for multi-occupied high-rise residential buildings

Chapter 2, Questions 1.1 – 1.8

Scope

GMFRS supports many of the principles contained in the proposals. They would enhance the safety of buildings, the public and firefighters. However, creating an entirely new regulatory system for a narrow category of buildings, without addressing the cause of failure within the current system, is short-sighted. The focus of the proposals, and the focus of the Independent Review of Building Regulations and Fire Safety, was on high-rise residential buildings because Grenfell Tower fell into this category. Had there been an equally devastating fire in a different building type, the focus would be there, and many thousands of residents would continue to live unaware in unsafe buildings. The recent fires in Barking and the Premier Inn in Bristol demonstrate that the potential for catastrophic building failure is not restricted to high-rise residential buildings.

In our submission to the Independent Review of Building Regulations and Fire Safety, GMFRS highlighted the disconnect between the transfer of responsibilities in relation to fire safety following the completion of a building and accountability for any failures. If a building complies with the building regulations, it should have adequate physical fire precautions. However, a failure to comply with the building regulations which has not been identified as part of the building regulation approval process may not easily be identified under other regulatory regimes, and in some cases may only become evident following a significant event during occupation.

The Building Control process, through regular inspections during works, should be sufficient to drive compliance. However, this is not done in a consistent manner and the opening up of the market to competition has resulted in a disincentive to building control inspectors to carry out adequate numbers of inspections, as it is not commercially viable to do so. Where the Approved Inspector route is taken, the suspension of the local authority building control LABC enforcement powers means there is little remedy available. Even where there is evidence that work may not comply with the regulations there is no effective enforcement.

It is arguably the Building Control process that is not fit for purpose and needs to be reformed. Problems caused by the failures in the current Building Control system are affecting multiple building types, not just high-rise. Within Greater Manchester, we have prohibited three residential developments that are low-rise flats, all built or

converted in the last ten years. Had a fire occurred in any of those developments there was the potential for multiple casualties or fatalities.

The scope of any new regime on buildings 18m+ is far too narrow. It will make worse the problems that already exist for buildings outside of this scope by creating a two-tier system for design and construction, building control, and the management of fire safety following occupation. Without wider reform of the building control process, the new regime will not address these issues for the majority of residential buildings.

The use of a height threshold, rather than the risk posed by intended use and occupancy, is unlikely to have any significant impact on reducing fires and fire fatalities. The scope of any new regime should be determined by the building's risk, not by its height. GMFRS believes that British Standard 9999, *Fire safety in the design, management and use of buildings,* is an effective way of profiling fire risk as it establishes the risk based upon occupancy, before determining appropriate design features for life safety. GMFRS recommends that as a minimum, the government should use this methodology or similar, when identifying in-scope buildings, where mass casualties or fatalities may occur in the event of fire. GMFRS recommends that all occupancy C and D buildings (defined by BS9999) should fall into scope. The consultation's categorisation of these premises as 'higher risk workplaces' is unhelpful, as the risk does not relate to employees but the use of the premises for sleeping.

Our own case studies and data suggest that the highest risk buildings in Greater Manchester are predominately found where occupants are sleeping on the premises. In the last three years, 70% of all primary fires have been in dwellings and dwelling fires account for 89% of injuries and 93% of fatalities. Although many dwelling fires do not occur in regulated premises, these statistics clearly support the categorisation of premises where people sleep as posing a higher risk. This risk is further compounded where occupants are unable to self-evacuate or rely on both active and passive fire safety features to protect them from fire due to the fire strategy of the building.

GMFRS also recognises that people are living longer but in deteriorating health. Trends indicate that people will remain in their own homes longer receiving care, or move to more specialised housing or residential care facilities. As such, the demand for this type of housing has increased. GMFRS has had some significant incidents in these types of premises and believe that the risk posed in this occupancy type is arguably greater than in residential high-rise buildings.

High-risk buildings extend to prisons, hospitals, residential care homes and all forms of specialised housing. In our experience, the fire safety issues in these types of premises, and the problems encountered in relation to the management of fire safety, arise from different causes to purpose built blocks of flats, and require a greater on focus on management. The failures within the Building Control system may also impact on these premises types.

It is our view that the proposals within the consultation are not the most appropriate means to better regulate this type of premises, particularly for existing buildings, and

would not deliver the improvements required. It is important to differentiate between calling for better regulation and expanding the scope of a proposed regime with a narrow focus. The current proposals relate to structural and fire safety issues rather than the management of fire safety arrangements, which is more relevant to care homes, and specialised housing.

All buildings that are not constructed in accordance with the relevant Building Regulations pose a significant risk that cannot be easily ascertained post occupation without significant invasive surveys. In some cases, the failure to build to an appropriate standard can have significant implications.

CASE STUDY

At New Lawrence House in Manchester, extensive structural and fire safety defects were identified some seven years after occupation and resulted in the closure of the building. In this case there are a significant number of leaseholders who have been left with a valueless property that cannot be occupied but for which they are liable to pay mortgages and ground rent (and for a period Council Tax) and have spent considerable time and funds on litigation which is still subject to appeal[1].

A new regime that does not address the building control process for non-high-rise residential buildings will not address the intrinsic structural elements of fire safety at the design and construction phase. This will result in a two-tier system of regulation that places the public at risk and provides no adequate form of redress for leaseholders.

Recommendations and findings

- **The Building Control process is not fit for purpose and needs to be reformed as a whole, beyond the narrow scope of the proposed new regime.**
- **The scope of any new regime should be determined by a building's risk, not by its height.**
- **Even if the scope of the new regime were expanded, the proposals would not adequately address the risks in specialised housing and care homes.**

High-rise buildings

If the Government does not wish to consider building safety in the whole, but limit the scope to the regulation of high-rise residential buildings, then the height threshold should be reduced to 11m. The 18m threshold is based on outdated criteria and flawed fire incident analysis.

The 11m threshold is the point at which GMFRS could access and effect a rescue from a window, due to the maximum reach of the ladder on our front line appliances. The figure of 18m is based on an old fire and rescue service (FRS) ladder that is no

[1] **Zagora** Management Ltd & Ors**v Zurich** Insurance Plc.& Ors [2019] EWHC 140 (TCC).

longer in existence. Some FRSs use shorter ladders than GMFRS and so even 11m would be too high for them to perform a window rescue.

Mandatory sprinkler installation for new buildings 30m+ means that these buildings are arguably some of the safest in Greater Manchester. Similarly, the cladding ban makes specific reference to being relevant to buildings above 18m. Therefore, those buildings below 18m are in theory covered by neither the cladding ban, the requirements of any new regime, nor mandatory sprinkler installation. This is especially high risk for those buildings between 11m and 18m, as most FRSs would be unable to perform a window rescue.

Our inspections of residential accommodation have identified significant fire safety failings within premises below 18m. In the main, the issues identified have been - poor compartmentation and fire stopping; risk from external fire spread; and poor fire resistance, all of which could equate to mass casualties or fatalities in the event of fire.

If a height threshold is to be used, it must be adequate to ensure the safety of the public and prevent any 'gaming' of the system – for example reducing the height to just below the threshold. GMFRS is of the view that 11m is the maximum height threshold that should be considered to ensure safety and make any attempts to avoid the regulatory threshold not commercially viable.

CASE STUDY

During the inspection of one block of flats, the Managing Agent was requested to identify and assess the external wall system. This required a survey and assessment of the various cladding systems by a competent person. Concerns were also identified in relation to the compartmentation and a compartmentation survey was required. A small proportion of the cladding was identified as ACM and therefore MHCLG has been monitoring this and requiring updates on interim measures and remediation plans. The majority of the building utilised other systems of which two were not compliant with the requirements of the building regulations and posed a more significant risk than the minimal amount of ACM. Following dialogue with the Managing Agent GMFRS served an enforcement notice in relation to Article 8 of the Fire Safety Order that required remediation of the cladding and works to address the compartmentation failures. Following the commissioning of appropriate professionals in order to draw up technical specifications for the remediation works the building has been identified as falling just below the 18m threshold. It is the position of GMFRS that the work is still required to ensure the safety of the residents, however this building would now fall out of scope of the new regime and it is unclear what the position will be in relation to accessing the remediation fund.

The legislation should allow a Joint Competent Authority (JCA) to classify other buildings as a 'high risk residential building' to bring it within scope of the regime where there are serious concerns about the safety. This could follow a similar mechanism to the 'HMO Declaration' provisions within the Housing Act 2004 and would require a notification period and an appeal process.

Recommendations and findings

- **If the Government does not wish to consider building safety in the whole, but limit the scope to the regulation of high-rise residential buildings, then the height threshold should be reduced to 11m.**

Managing risks holistically

Questions 1.2-1.3

Following our comprehensive and detailed inspection programme of all high residential buildings in Greater Manchester, the fundamental failings identified relate to defects at the construction stage and a failure to comply with fundamental requirements of the Building Regulations. This extends far beyond the type of cladding used and includes compartmentation within the building, and the measures to prevent spread of fire in the external wall system with cavity barriers missing or incorrectly installed in a number of buildings.

In our opinion, the Fire Safety Order (FSO) provides an adequate framework for managing fire safety in high-rise buildings, where it is complied with, and those responsible for the building understand their obligations and have the requisite competency to meet those obligations. The FSO, in principle, also provides an effective mechanism for enforcement. Difficulties arise where the fire safety failings are due to non-compliance with the Building Regulations and therefore require extensive and costly work to be undertaken. This is demonstrated by the number of high-rise residential buildings which have, since Grenfell, needed to change their evacuation strategy and required extensive and costly remediation work. In Greater Manchester, this is over 100 buildings to date and includes both external wall systems and compartmentation issues, which are failings of the Building Control process. Given the lack of any effective enforcement or sanctions for Building Control failures, the regulatory burden in relation to these premises has fallen to GMFRS to utilise the provisions of the FSO in relation to both interim measures and remediation. This is not restricted to high-rise buildings and but also affects other purpose built flats and conversions. There are three such developments in Greater Manchester that are currently prohibited and many others where work is ongoing, through either dialogue and constructive working, or enforcement action. The costs in all cases of privately owned flats will most likely fall on leaseholders.

GMFRS does not consider that the application of both the FSO and the Housing Act 2004 (HA2004) to multi-occupied premises poses a barrier to the effective enforcement of fire safety management in multi-occupied residential buildings. Both pieces of legislation apply to many types of multi-occupied residential accommodation including purpose built blocks of flats, houses in multiple occupation (HMOs), sheltered housing schemes and many other forms of specialised housing. It is the experience of GMFRS that both pieces of legislation have been largely effective since they came into force. The issues caused by the perceived overlap between the two regimes are primarily caused by the existing guidance.

The GMFRS submission to the Independent Review of Building Regulations and Fire Safety set out our view on this issue in relation to high-rise residential buildings. The FSO applies to the common parts of flats and HMOs, but the extent of this is not made clear in guidance. In relation to the FSO, there is a range of Government Guides (which have not been reviewed or updated in 10 years) of which the *Sleeping Guide* is the most appropriate, as well as the *Fire Safety in Purpose Built Blocks of Flats Guide* (PBBFG) produced by the LGA. Although the PPFG was supported by DCLG, it is not given the same credence on the Government's websites – being referred to as 'advice' rather than a guide. It is arguable that despite being intended to cover all forms of purpose built flats, the PPBFG is less accessible and may appear less relevant to those concerned in property management in the private sector.

It is primarily from the PPBFG that confusion arises over the interrelationship between the FSO and the HA2004. This guide repeatedly talks about the FSO only applying to the common parts of a building but does not adequately define this.

We were pleased to see the Hackitt Report acknowledge the application of the Fire Safety Order (FSO) to all common parts of the premises including the external structure. Further GMFRS concurs with the suggestions within the Hackitt report that the FSO should be the primary legislation for ensuring fire safety across the building and the Housing Act as appropriate for regulating individual dwellings. It is disappointing that this is not clearly addressed in the new proposals.

In our view 'common parts' are adequately described in the Health and Safety (Enforcing Authority) Regulations 1998 as "those parts of premises used in common by, or for providing common services to or common facilities for, the occupiers of the premises". This is usually set out in a building's lease agreements.

It is our view that in a purpose built block of flats 'common parts' includes any part of the structure, facilities or services which serves more than one flat and / or the freeholder retains some control over. Thus 'common parts' includes the communal areas, any services which run through the building, the structural walls (including those within flats) and the front door to a flat. The powers of inspectors under the FSO allow access to any premises at any reasonable time in order to ascertain whether the provisions of the FSO apply and are being complied with. Therefore, inspections under the FSO within a flat are possible, to determine whether there are breaches in compartmentation. We have utilised these powers effectively. However, the PBBFG contradicts this and states that the FSO does not apply beyond the front door of a flat and there is no power of inspection.

Clearly, the purpose of inspecting areas within a flat is restricted to elements of the structure that could affect occupiers elsewhere in the building. It is not suggested that the scope of the FSO extends to the risk of fire within the flat for the occupier of that flat – that is a matter better addressed under the Housing Health and Safety Rating System (HHSRS).

Further, the PBBFG states that the HA2004 applies to both the common parts and the individual flats, yet this contradicts the Government Guidance for the HHSRS

which pays scant attention to purpose built blocks of flats. In the HHSRS Guidance for Landlords and Property Professionals at p13, flats are included under the heading of Houses of Multiple Occupation (HMOs) - “HMOs – buildings which contain a number of flats or similar dwellings…..The HHSRS is applied to any form of dwelling whether it is self-contained or not, in a large building or not. The local authority officer only has to examine the dwelling and the parts and areas, shared or not, which form part of that dwelling.”

This suggests that the focus of Environmental Health Officers enforcing the HHSRS is on individual dwellings rather than the common parts except in so far as they affect the occupier of the dwelling.

There is no specific mention of high-rise premises in relation to ‘Fire’ as a hazard. Prior to last year, there were no worked examples readily available to assess the extent of the hazard in a purpose built block of flats. Specific guidance has now been issued in relation to ACM cladding, but not other fire risks such as compartmentation. On the basis that to score a hazard, consideration must be given to the likelihood of a fire occurring, the HHSRS is not the most appropriate mechanism for considering the risks arising from a fire affecting all of the occupiers of a block of flats.

Many of the provisions of the FSO mirror that of the Health and Safety at Work Act and regulations made under it. The Health and Safety (Enforcing Authority) Regulations 1998 (HHRS) define ‘common parts’ as “those parts of premises used in common by, or for providing common services to or common facilities for, the occupiers of the premises”. Clearly, the external structure and insulation for a building is a common facility affecting more than one dwelling within the flat. GMFRS considers that the FSO and HHSRS complement each other to ensure the safety of relevant persons in multi-occupied buildings and the mechanism for ensuring this is through adequate guidance and effective partnership working.

In relation to purpose built blocks of flats, the local housing authority would generally lead on issues within flats, and GMFRS would lead on issues affecting the common parts, including compartmentation. The powers of entry under the FSO allow entry to flats to determine whether the requirements of the FSO are being complied with, and we have utilised this to inspect for compartmentation issues. In our view clearer guidance as to which authority should lead would address the perceived issues of any overlap.

If the FSO were to be disapplied to the common parts of multi-occupied buildings, it is the view of GMFRS that members of the public living in these buildings would be at increased risk. The FSO imposes an obligation to carry out a fire risk assessment in order to identify the preventive and protective measures and implement, monitor and control these through fire safety arrangements. No such corresponding obligations arise under HA2004, which is focussed on the reduction or removal of potential hazards and not on ongoing management and control. There are many examples where GMFRS has taken action to enforce in purpose built blocks of flats including prohibiting the use of buildings where the local housing authority was unable to take effective action.

It is clear following the fire at Grenfell Tower that many of the fire safety risks in purpose built blocks of flats relate to defects in the original construction. This is not restricted to external wall systems; there are also extensive problems with compartmentation. The FSO allows for this to be addressed through the requirement to make a suitable and sufficient fire risk assessment to identify the risks and for works to be carried out. Significantly, the requirement to make and give effect to effective fire safety arrangements also allows a FRS to require the implementation of 'interim measures' to support a change in evacuation strategies. We have used this extensively where either the external wall system, or deficiencies in the compartmentation, have posed such a risk that a stay put policy cannot be supported. In some cases, enforcement notices have been served to require appropriate measures to be put in place. There is no corresponding power under the HA2004.

Since April 2018, GMFRS has served 31 enforcement notices on purpose built blocks of flats requiring either a suitable and sufficient fire risk assessment to be undertaken, or work to be carried out to the common parts. It is our view that if the FSO is disapplied to this type of property, then work that is essential for ensuring the safety of those who live there will not be undertaken, and there will be no effective mechanism to ensure that fire safety arrangements are managed.

Even if the FSO is to be disapplied to the common parts of multi-occupied buildings, this will not remove all premises within multi-occupied residential dwellings from its jurisdiction, as the HA2004 does not apply to short-term lettings. Increasingly, flats are being utilised to provide short-term lettings and it is common for there to be a significant number of flats within a residential block used for this purpose, in some cases whole floors of a building. This would lead to a situation where the local housing authority had enforcement powers in relation to residential dwellings and the common parts, and the FRS has enforcement powers in relation to those flats being utilised as short-term accommodation. Any disapplication of the FSO would remove the statutory requirement for persons with responsibility to co-operate and co-ordinate, and would potentially create significant risks about the management of fire safety arrangements for the building.

GMFRS is also concerned that any disapplication of the FSO to the common parts of multi-occupied residential buildings would remove an essential link between our protection activity and response functions. Firefighting in flats, particularly high-rise flats, poses specific challenges for firefighting operations and there have been firefighter fatalities at high-rise incidents. The fire at Grenfell Tower demonstrates the importance of a knowledge and understanding of the features of a building, and how it should perform in a fire. In GMFRS all high-rise buildings were inspected by operational crews supported by Fire Safety Officers following the fires at both Lakanal House and Grenfell Tower, and the effectiveness of this was predicated in the knowledge and understanding of Fire Safety Officers. To remove this element of the work from the enforcement functions of FRSs will reduce our ability to monitor and understand conditions within a building that could affect performance in a fire and potentially place not only the public, but also firefighters at great risk. This would be contradictory to the proposals to consult FRSs at the planning stage in relation to

access and water (which we welcome as an essential part of ensuring and embedding safety requirements).

It would be beneficial for the definitions within the FSO to be revised and updated and for there to be a statutory definition of ‘common parts’. The definition of the common parts in the Health and Safety (Enforcing Authority) Regulations 1998 as “those parts of premises used in common by, or for providing common services to or common facilities for, the occupiers of the premises” should be the starting point. It is our view that both the external structure and internal structure of a building is a common facility affecting more than one dwelling within the flat, and in our experience this is reflected within lease agreements.

The Government should produce a HM Government Guide for Fire Safety in multi-occupied residential buildings. The Guidance should include, as a minimum, all flats, irrespective of height and tenure, and should specifically address all uses including serviced apartments and short-term lettings, where these form part of the use of the building.

In addition, there should be a requirement in all multi-occupied buildings for the responsible person to be clearly identified and for this to be recorded and published alongside the identity of all other parties with responsibility for fire safety within the building. This would address many of the practical difficulties with enforcement. This would also ensure that those with responsibility for buildings properly considered the extent of their responsibilities and obligations. This would help promote a culture of transparency and accountability. It is our view that this requirement could be introduced with relative ease through Regulations made under Article 24 of the FSO, or alternatively through an amendment to the FSO.

Recommendations and findings

- **The FSO provides an adequate framework for managing fire safety in high-rise buildings, where it is complied with, and those responsible for the building understand their obligations and have the requisite competency to meet those obligations.**
- **The FSO and the HA2004 complement each other to ensure the safety of relevant persons in multi-occupied buildings. The mechanism for ensuring this is through adequate guidance and effective partnership working.**
- **If the FSO were to be disapplied to the common parts of multi-occupied buildings, members of the public living in these buildings would be at increased risk.**
- **Regarding short-term lettings, any disapplication of the FSO would remove the statutory requirement for persons with responsibility to co-operate and co-ordinate. This would potentially create significant risks about the management of fire safety arrangements for the building.**
- **The fire at Grenfell Tower demonstrates the importance of a knowledge and understanding of the features of a building, and how it should**

perform in a fire. Any disapplication of the FSO to the common parts of multi-occupied residential buildings would remove an essential link between an FRSs's protection activity and response functions. This will reduce our ability to monitor and understand conditions within a building, negatively affecting our response to a fire and placing the public and firefighters at greater risk.

- **The definitions within the FSO need to be revised and updated, including a statutory definition of 'common parts'.**
- **The Government should produce an HM Government Guide for Fire Safety in multi-occupied residential buildings. The Guidance should include, as a minimum, all flats, irrespective of height and tenure, and should specifically address all uses including serviced apartments and short-term lettings, where these form part of the use of the building.**
- **There should be a requirement in all multi-occupied buildings for the responsible person to be clearly identified and for this to be recorded and published alongside the identity of all other parties with responsibility for fire safety within the building.**

A more effective regulatory and accountability framework for buildings

Chapter 5, Questions 6.1 – 8.15

The consultation is vague on the proposals for a new regulator. GMFRS is supportive of creating a new national body that oversees the framework for improving building safety. GMFRS believes that the scope of this new body's remit should go beyond high-rise residential buildings above 18m, and include all high-risk buildings as discussed in the section on "Scope" above. However, GMFRS does not believe this new national body should be responsible for undertaking enforcement and inspection processes. Instead, GMFRS supports Dame Judith Hackitt's recommendation to create a local Joint Competent Authority (JCA). This would comprise of Local Authority Building Standards, fire and rescue authorities (FRAs) and the Health and Safety Executive (HSE). The JCA would oversee management of safety risks across the entire life cycle of buildings in scope.

The creation of an entirely new single regulator with inspection and enforcement powers would draw building safety expertise away from three pre-existing organisations who would still have safety critical work to take forward. This will exacerbate a potential two-tier system, especially if a height threshold of 18m is applied to determine buildings in scope. Those buildings below 18m will not only have less robust safety standards, but they will be regulated locally by organisations whose expertise and experience has been taken away by a national regulator. They will also be designed, constructed and managed by those not subject to the same competency requirements.

Whilst GMFRS maintains that inspection and enforcement should be undertaken locally by the JCA, there is still a potentially large remit for a new national body. It could:

a) Oversee and where necessary prescribe guidance, and ensure guidance is reviewed on a regular basis
b) Oversee and regulate testing and certification regimes
c) Oversee competency across industry and investigate competency-related complaints
d) Create and oversee a national register of licensed / accredited Building Safety Managers
e) Act as the relevant body for whistleblowing concerns
f) Hold and maintain a national digital platform for storage of safety case information and the golden thread (with local management)
g) Provide a dispute resolution mechanism aligned to a similar process contained within Article 36 of the Fire Safety Order
h) Monitor the effectiveness of the JCA
i) Intervene in management and direct enforcement in the event of serious concerns
j) Have oversight of the regulatory system and be required to carry out periodic reviews that are reported to Parliament.
k) Be required to keep regulations and guidance under regular review.

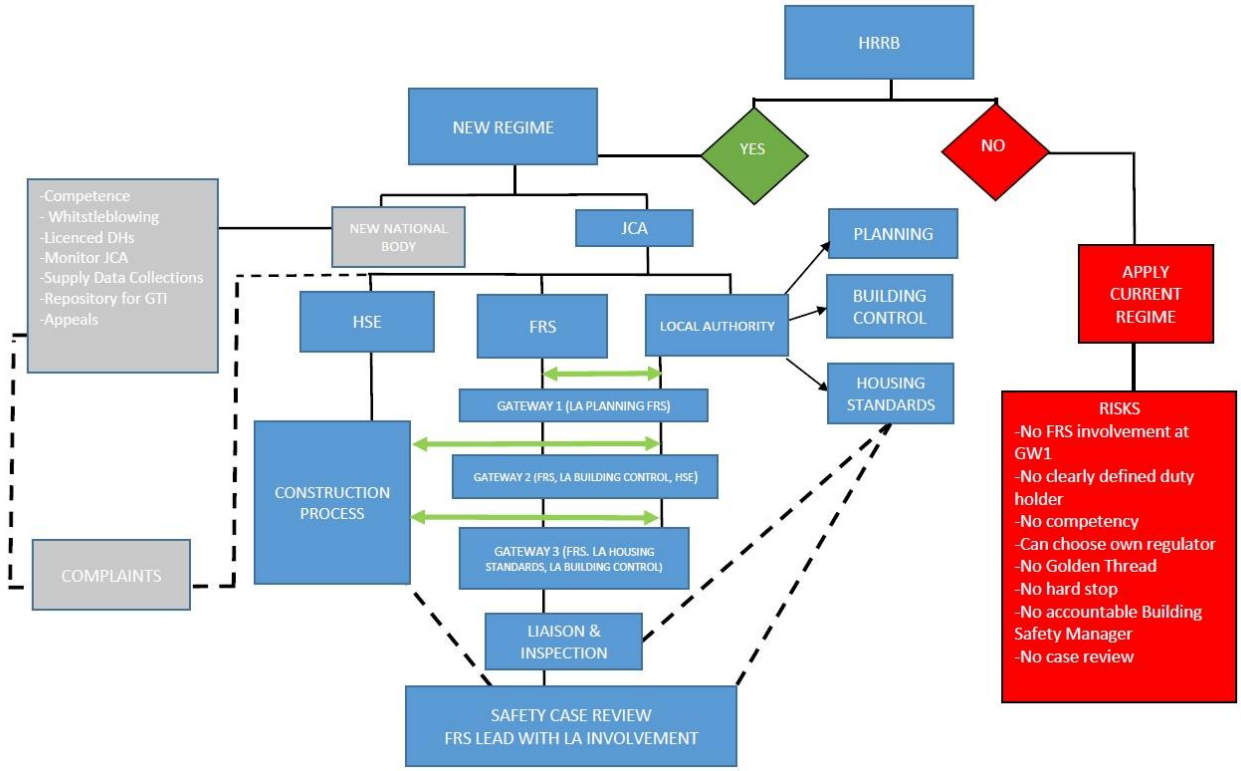
The new national body should have oversight of all areas of competency and this would create a conflict of interest if it were to have a direct role in regulation and enforcement of buildings.

There should be a periodic review of the regulatory system and the role of the new national body, and this should be carried out every five years and reported to Parliament.

GMFRS considers that many of the ideas within the proposals can be carried out by existing regulators working in partnership through a JCA, if changes are made to the Building Control system and regulations are introduced under the Fire Safety Order. In the short term, this would not require the creation of a new national body, but support from the Joint Regulators Group (JRG), with the JRG producing guidance. GMFRS is concerned that the current model of the JRG is not transparent and this would need to be addressed before it was provided with a formal role.

The relationship between the new national body and the JCA should operate as per the diagram below. The relationship between the Local Authority will clearly be determined based on the legislation. The potential scope for involvement of Housing Standards teams is shown with a dotted line as the proposals in this regard are unclear but if changes are made to the existing legislation this would affect the operation of the proposed JCA.

Diagram 1: Proposed operation of regulation



The risks outlined in the diagram above for those buildings not in scope, and the risk of a two-tier system are self-evident. This why GMFRS considers that the proposed scope of a new regulatory regime is not adequate and wider reform of the Building Control regime is necessary.

Oversight of Competence

GMFRS is supportive of an increased focus and formal requirements in relation to competence. The current scope covered by the Working Groups will not be adequate to ensure a culture change across all relevant industries and further work will be required in this area.

GMFRS is supportive of the principles of an Industry Led Steering Group but considers this should report and be accountable to the new national body, which should also address concerns and complaints about competence.

Construction Products

GMFRS supports the recommendations for a clearer, more transparent and more effective regime for oversight of products and testing.

GMFRS is supportive of the inventory list approach. However, this should not be restricted in scope, but form part of the wider reform of the Building Control system. Where Modern Methods of Construction (MMC) are used, the inventory should include specific reference to the test data that has been used in approving the products, particularly with regard to an MMC's fire performance and intended application.

GMFRS considers that the oversight and enforcement of construction products is a function that could be delivered by the new national body working with existing organisations to share and develop expertise.

GMFRS is supportive of the proposals for an umbrella standard, but believes that in addition to the outlined requirements, consideration should also be given to:

- a register of reported near misses and dangerous occurrence involving products;
- making data available for products that have been tested and failed; and
- an extension of the 'whistle-blowing' process into the manufacturing of products for independent assurance of product testing

Recommendations and findings

- **A new national body that oversees the framework for improving building safety is welcomed. The scope of this new body's remit should go beyond high-rise residential buildings above 18m, and include all high-risk buildings.**
- **This new national body should not be responsible for inspections and enforcement.**
- **Inspection and enforcement should be the responsibility of the JCA, consisting of FRAs, local authority buildings standards, and the HSE. Where there are serious concerns about fire safety, the legislation should also allow the JCA to classify a building as a 'high risk residential building' to bring it within scope of the regime.**
- **The new national body should:**
- **The new national body should:**
    - **Oversee and where necessary prescribe guidance, and ensure guidance is reviewed on a regular basis.**
    - **Oversee and regulate testing and certification regimes.**
    - **Oversee competency across industry and investigate competency-related complaints.**
    - **Operate a 'licensing' regime for Building Safety Managers.**
    - **Act as the relevant body for whistleblowing concerns.**
    - **Host and maintain a national digital platform for storage of safety case information and the golden thread (with local management).**
    - **Provide a dispute resolution mechanism aligned to a similar process contained within Article 36 of the FSO.**
    - **Monitor the effectiveness of the JCA**
    - **Have the authority to intervene in management and direct enforcement in the event of serious concerns.**
    - **Have oversight of the regulatory system and be required to carry out periodic reviews that are reported to Parliament.**
    - **Be required to keep regulations and guidance under regular review.**

- **Many of the principles within the proposals can be delivered at an early stage through effective partnership arrangements as a precursor to a JCA with guidance from the Joint Regulators Group.**

A new dutyholder regime

Chapter 3, Questions 2.1 – 4.19

The proposal to introduce specified dutyholders with clear legal accountabilities at stages of the buildings life cycle is welcomed. However, it is hard to see how this can be justified only for buildings over 18 metres.

Dutyholders and responsibilities in design and construction

There are already 'dutyholders' within the existing system of Planning, Building Regulations, Construction and Occupation. In the main, the proposals simplify the regime. GMFRS currently has little involvement during the Planning and Construction phases. In our experience, the current system of Building Control may mean that comments made by fire and rescue services (FRSs) are not passed on to, or considered, by the Designer and Client. There have been occasions where comments made by GMFRS as part of the building regulation consultation process have not been acted upon, causing problems following occupation, and costly rectification work.

The failures within the current regime to consider the end user requirements and occupancy, have led to buildings that do not meet the end user's needs, or require management and maintenance regimes that are unsustainable for the occupiers.

Although the principles of the new proposals are sound, further work is likely to be required. The proposed dutyholder roles are based on those contained within the current CDM Regulations that only relate to safety during the construction phase. It is not clear to what extent the current obligations are consistently met under the CDM Regulations.

The government should undertake a review to ensure they are practical and align to the construction industry to maximise compliance. GMFRS is concerned that the focus of CDM Regulations is fundamentally different to the principles of the new regime and to expand the scope and responsibilities of these dutyholders for a small proportion of buildings may cause confusion unless it forms part of wider reform of the Building Control system.

As discussed above, the scope of the new regime should be widened, and the principle of clear dutyholders and responsibilities should be applied to all new developments.

In respect of the proposals for named individuals to be accountable where the dutyholder is a legal entity, GMFRS has concerns that this may not be the most appropriate mechanism for embedding accountability, and it is not clear how this would work within all structures. The current mechanisms available within the Health

and Safety at Work Act (s.37) and the Fire Safety Order (Art. 32(8) allow for individuals who are Directors or Officers of corporate bodies to be held criminally accountable where an offence has been committed with their consent, connivance, or as a result of neglect. These mechanisms have been successfully used in prosecutions. This principle could also be applied for other enforcement mechanisms, including civil sanctions if introduced, and to ensure general compliance.

The Accountable Person

GMFRS supports the principle that ongoing fire safety responsibilities throughout the life cycle of a building should be clear to dutyholders, as should the sanctions for those who fail to fulfil these responsibilities. The concept of an 'accountable person' for buildings in occupation is logical and would assist in ensuring clearly defined responsibilities. However, the proposals do not identify how they differ from the current responsibilities imposed by the Fire Safety Order (FSO).

The FSO provides for there to be "the responsible person" for fire safety. For high-rise residential buildings, this will generally be the person in control of the premises, or, where no one has control, the owner. Although this may vary between tenures, it is ordinarily defined through the contractual obligations relating to repair and maintenance of the building. In multi-occupied residential buildings, identifying the responsible person is often very complicated, as the extent of responsibilities for the building cannot easily be established and may change on a regular basis. Although the FSO makes adequate provisions for establishing legal responsibilities, in practice the arrangements vary from premises to premises, are not always immediately apparent, and may require detailed consideration of both lease agreements and contractual management arrangements between different parties. This is not adequately reflected in guidance and creates practical difficulties for occupiers wishing to raise concerns, and for enforcing authorities. In social housing, it is generally relatively straightforward identifying the responsible person. However in private blocks, the complex nature of leasehold ownership means that there may be a number of responsible persons.

Although the principle of establishing an entity or individual with overall responsibility is sound, the proposals contain no detail on how this will be defined or determined, and therefore does not adequately address the existing difficulties. It is not obvious how the proposal to create an 'accountable person' offers any advantages over the existing legislation. Further, if this is only applied to a limited number of buildings it will create a two-tier system of management of occupied buildings. For example, one housing provider in Greater Manchester has five blocks of flats within a cluster, two of which are just over 18 metres and three are just under 18 metres. The same housing provider would be required to identify and publish the details of an accountable person for only two of the blocks and not the responsible person for the other three.

This issue could be addressed across all multi-occupied residential buildings via regulations introduced under the FSO, requiring the identity of all responsible person/s to be displayed in the common parts of complex properties (including multi-

occupied residential and mixed use high-rise building) and the extent of their responsibilities.

There is also an important distinction between responsibility and liability. This has been apparent during the difficulties in ensuring remediation of buildings with non-compliant cladding systems. If it is found that a building has been constructed incorrectly, the liability for meeting the costs of the remediation work is legally complex and time-consuming. Simplifying and making consistent the governance and responsibilities of buildings, both in scope and other residential buildings, would enable a clear understanding for all stakeholders. However, without wider reform of the leasehold system, this will not prevent difficulties related to funding the work.

Building Safety Manager

As outlined above, GMFRS is supportive of the principle of clearer responsibilities and accountabilities for those involved in the management of residential buildings.

The management of both commercial and residential buildings is largely unregulated, with existing trade associations offering a degree of self-registration and compliance in relation to those companies who choose to become members. There is no mechanism for requiring a basic knowledge or qualification relating to fire safety. There is little or no adequate means of redress for consumers in relation to this.

Currently, there is inconsistency in the extent to which fire safety management is given any prominence and priority in the management of multi-occupied residential buildings and there are no clear competency requirements or relevant professional qualifications.

In some cases, it is clear that individuals carrying out day-to-day management functions have no understanding of fire safety provision within blocks of flats. In addition, the competitive nature of the industry for management of private buildings can result in fire safety management being neglected in favour of more visible activities such as regular redecoration, window cleaning and refuse disposal. We frequently encounter buildings where there are inadequate systems of maintenance for fire safety features such as fire doors, ventilation systems, compartmentation, emergency lighting, etc.

A Building Safety Manager (BSM) should be required to demonstrate competency in relation to fire safety management. As the consultation has been done prior to the planned consultation on competency frameworks, it is unclear how this will be achieved.

The proposals do not make clear whether the BSM role is envisaged to be undertaken by a legal entity, an individual, or either. It is not clear, therefore, how the registration process would work, and how this would impact on existing arrangements and contracts for the management of buildings.

GMFRS believes that anyone with responsibility for the management of buildings should have a sufficient degree of competence to fulfil their role. This may vary depending on the nature of the management arrangements for the building.

It may be more proportionate to introduce a scheme by which BSMs are effectively 'licensed' to manage buildings based on competency, with a requirement imposed on accountable persons to only employ an accredited or licensed BSM.

The BSM will also have responsibilities for the building that fall outside of the scope of the proposed regulation. This includes gas and electrical safety issues, which fall under existing regulatory regimes, as well as other matters important for those living in high-rise buildings. If the accountable person has to have approval for the BSM for a particular building from a regulator this will impact on the ability to hold the manager to account across a range of areas and may interfere with contractual rights and obligations between the parties. This proposal also fails to consider the impact of a legal entity that fulfils the role of BSM ceasing to trade, or, if the role is fulfilled by an individual, any changes to their circumstances such as illness, maternity leave etc.

If a regulator is to have the ability to appoint a BSM, this should be a measure of last resort. In the first instance, there should be a mechanism whereby a direction can be issued to the accountable person to appoint a licensed BSM within a specified time frame. More consideration needs to be given as to how any appointment of a BSM by a regulator would work in relation to the other management functions in multi-occupied residential buildings. A key element of this will be the financial arrangements – in the absence of effective regulation of management of buildings where intervention of this nature was required, it is unclear how the cost would be met. Building management is ordinarily part of service charge expenditure and there may be inadequate finances in place to resource a secondary manager. Any additional expenditure is likely to fall on leaseholders.

A BSM should be required to demonstrate competency in relation to fire safety management. As the consultation has been done prior to the planned consultation on competency frameworks, it is unclear how this will be achieved. The effective management of fire safety in buildings requires all involved to have an appropriate degree of knowledge and understanding of key fire safety provisions relevant to their role and further competency requirements for roles below the BSM must be considered and implemented.

Recommendations and findings

- **The proposal to introduce specified duty holders with clear legal accountabilities at stages of the buildings life cycle is welcomed. However, this should be applied wider than buildings above 18m.**
- **The proposals for named individuals to be accountable where the dutyholder is a legal entity, may not be the most appropriate mechanism for embedding accountability, and it is not clear how this would work within all structures. The current mechanisms available within the Health and Safety at Work Act (s.37) and the FSO (Art. 32(8)) might be more appropriate.**
- **The principle that ongoing fire safety responsibilities throughout the life cycle of a building should be clear to dutyholders is welcomed, as are the sanctions for those who fail to fulfil these responsibilities.**

- **The concept of an ‘accountable person’ for buildings in occupation is logical and would assist in ensuring clearly defined responsibilities. However, the proposals do not identify how they differ from the current responsibilities imposed by the FSO.**
- **The current proposals for an ‘accountable person’ will not address the significant problem of liability to meet the cost of works.**
- **If the dutyholder regime is only applied to a limited number of buildings, it will create a two-tier system of management of occupied buildings.**
- **This issue could be addressed across all multi-occupied residential buildings via regulations introduced under the FSO requiring the identity of all responsible person/s to be displayed in the common parts of complex properties (including multi-occupied residential and mixed-use high-rise building) and the extent of their responsibilities.**
- **There is an important distinction between responsibility and liability. If it is found that a building has been constructed incorrectly, the liability for meeting the costs of the remediation work is currently legally complex and time-consuming. Simplifying and making consistent the governance and responsibilities of buildings, both in scope and other residential buildings, would enable a clear understanding for all stakeholders, but without wider reform of the leasehold system, will not prevent difficulties related to funding the work.**
- **A Building Safety Manager (BSM) should be required to demonstrate competency in relation to fire safety management.**
- **The proposals do not make clear whether the BSM role is envisaged to be undertaken by a legal entity, an individual, or either. It is not clear, therefore, how the registration process would work, and how this would impact on existing arrangements and contracts for the management of buildings**
- **A scheme of ‘licensing’ or ‘registration’ of BSMs based on competency, would offer a more proportionate and effective approach than assessing this on a building-by-building basis. There should be a requirement imposed on accountable persons to only employ a registered or licensed BSM.**
- **If a regulator is to have the ability to appoint a BSM, this should be a measure of last resort. In the first instance, there should be a mechanism whereby a direction can be issued to the accountable person to appoint a licensed BSM within a specified time frame.**
- **More consideration needs to be given as to how any appointment of a BSM by a regulator would work in relation to the other management functions in multi-occupied residential buildings.**
- **The effective management of fire safety in buildings requires all involved to have an appropriate degree of knowledge and understanding of key fire safety provisions relevant to their role. Further competency requirements for roles below the BSM must be considered and implemented.**

Gateways

Chapter 3, Questions 2.5 – 2.33

Gateway 1

GMFRS welcomes the introduction of the Gateways and the designation of fire and rescue authorities (FRAs) as statutory consultees for planning purposes. However, as stated above, GMFRS believes that FRAs should be statutory consultees for planning as part of a Joint Competent Authority (JCA).

FRAs are not currently statutory consultees at the Planning stage. So, for instance, the necessary water pressure required for firefighters to extinguish a fire quickly and effectively is not always implemented. A lack of sufficient water pressure was noted by firefighters at Grenfell Tower, drastically reducing their ability to extinguish the fire. FRA's involvement at the Planning stage is also vital in terms of firefighter access. This includes road layout to allow fire engines to get to a building; and layout and parking at the building to allow a fire engine to get close enough to pump water onto it. Currently, the inadequate provision of water supply and firefighter access is frequently only being realised during or after construction, by which time it is too difficult, or too costly to fix.

Chapter 3 of the consultation suggests making FRAs statutory consultees at Gateway One, but on a temporary basis, until a national regulator takes on this role. GMFRS does not support this. The knowledge and experience required to make decisions around fire and rescue service (FRS) access and facilities sits within FRAs. It is likely that should a national regulator take on this role, they will call upon FRAs to support this decision-making. This seems an unnecessary further layer of process that will impact negatively on time scales and the quality of the assessment, and impact on FRA resources.

As discussed above, GMFRS does not believe that a height threshold should be applied to determine the buildings in scope. For instance, in GM there is a housing estate built without sufficient access to the water required to effectively and quickly extinguish a house fire. The application of a height threshold would mean such problems would still arise. This problem is not exclusive to residential developments but also affects large industrial premises such as storage warehouses.

CASE STUDY

GMFRS recently received a fire hydrant request for a new industrial development - a 250 acre site with most of the infrastructure already in place. The primary use for the site was for warehousing / distribution, with relatively low water requirements for the buildings. As a result, a small diameter water supply was installed for the purposes of tap water and toilets. Pipes are not big enough to allow adequate water supplies for firefighting, preventing a firefighter going in to a fire, increasing the risks of loss of life and damage to the building. Any cost to increase the water flow at an incident will

now fall on GMFRS. The buildings meet the current Approved Document B recommendations, which simply require a fire hydrant without specifying any water flow requirements. Had GMFRS been notified of the development at the planning stage, a water strategy could have been agreed leading to reduced cost on the public purse and a safer situation for the buildings and their occupants.

Another development came to our attention at the building regulations consultation. It is several hundred metres from the main road and basic infrastructure had already been put in place. In this case, the building has a nearby large pond and the developer is going to considerable expense to install pipework and hard standing to enable GMFRS to draw water from the pond to use for firefighting. Again, this would have been cheaper had it been raised at the planning stage. In this case, it is not the public purse covering the cost as the developer is taking appropriate steps. This will add significantly to the overall cost of the development.

GMFRS believes that FRAs should be statutory consultees as part of the JCA at the planning stage for all new developments (residential and non-residential) in relation to the requirements for FRS access and water supply (with restrictions applied to exclude certain developments). This measure would also automatically bring into scope developments in the vicinity of buildings within full scope of any new regime, and developments within the vicinity of other critical buildings / infrastructure.

The Fire Statement should consider not only fire response requirements for the proposed development but also the impact of a fire on nearby buildings / infrastructure. This would help develop a focus on the resilience of buildings, not just the ability of occupants to evacuate / be rescued should a fire occur.

As a minimum GMFRS supports the proposals for FRSs to be statutory consultees for buildings in scope and in a vicinity of 150 metres.

Making FRAs statutory consultees as part of the JCA at the planning stage of a development will increase the workload for FRAs following a period in which their budgets have been falling. It is vital that FRAs are funded appropriately for this new work or that pre-application consultation should involve full cost recovery as it does in relation to other planning related issues. Discussions with Planners has indicated that FRA's involvement could form part of the existing 'pre application consultation' phase and include the payment of a fee to FRAs.

GMFRS does not consider it would proportionate or cost effective for Planners to undertake this function. Further, the premise that the risk of a 'hard stop' at Gateway 2 is sufficient to ensure access and water requirements are adequately considered at the planning stage, is contrary to the principles of better regulation and does not support the developments required nationally.

The areas of Manchester and Salford around the city centre have seen significant growth in residential development in the last twenty years and this is set to continue in order to meet the increasing need for housing to support the growth of the city region. There are examples of high-rise residential buildings which pose considerable difficulties in relation to access for fire appliances and this will worsen

unless access is given proper consideration at the planning stage for new developments.

Recommendations and findings

- **The introduction of the Gateways and the designation of FRA as statutory consultees for planning purposes is welcomed and this should go beyond the narrow scope of the current proposals.**
- **At the planning stage, FRAs should be statutory consultees as part of the JCA for all new developments (residential and non-residential) regarding the requirements for FRS access and water supply.**
- **As a minimum, GMFRS supports the proposals for FRAs to be statutory consultees for buildings in scope and within a vicinity of 150 metres of buildings in scope.**
- **FRAs should be funded appropriately for this new work or the work should involve full cost recovery as it does in relation to other planning related issues.**
- **The Fire Statement should consider not only fire response requirements for the proposed development but also how this will impact nearby buildings / infrastructure. This would help develop a focus on the resilience of buildings, not just the ability of occupants to evacuate / be rescued should a fire occur.**
- **The principles of enhanced regulatory oversight at the design stage and a 'hard stop' prior to construction starting are welcomed. However, this should not be restricted to buildings over 18m, but form part of wider reform of the Building Control system.**

Gateway 2

GMFRS supports the principles of enhanced regulatory oversight at the design stage and for there to be a 'hard stop' prior to construction starting. However, this should not be restricted to buildings over 18 metres, but form part of a wider reform of the Building Control system outlined above.

We agree that the information set out at paragraph 89 will provide a more effective approach to regulation and support the principle of ensuring that the Fire Statement provided at Gateway 1 is built upon, and that the proposed dutyholders are appropriate for this function.

We consider that a requirement to submit full plans for any new development should be introduced as part of reform of the building control system. The co-ordination of the information is key. The person responsible for this can be determined on a development-by-development basis, providing the role is clearly identified, allocated to one dutyholder and documented. It could therefore, be either the client, the Principal Designer, or the Principal Contractor, providing the information is co-ordinated.

GMFRS supports the principle of a 'hard stop' before construction begins and considers that for certain developments, a staged approach would be appropriate. It

should be incumbent on the client / Principal Designer to set out at an early stage in discussions with the regulator (the JCA) that an application for a staged approach will be made. A staged approached must be agreed by the JCA prior to any work commencing.

GMFRS considers that any new regulatory regime must provide effective sanctions and a disincentive to non-compliance. We support the principle that any work carried out without, or not in accordance with, the relevant approvals can be pulled down or removed, where this is necessary and proportionate. We support the principle that a JCA should have the power to prohibit further work being undertaken until non-compliant work has been rectified, where this necessary and proportionate.

It is our view that the regulator (the JCA) should be required to respond to Gateway 2 applications within a prescribed timescale, but any timescales should reflect the complexity and resourcing requirements, and should be variable dependent on the size of the development. It may necessary to consider a sliding of scale of timescales to ensure adequate time is allocated for the effective discharge of regulatory functions. For example, the current timescale of 15 days afforded to FRA in relation to Building Regulation consultations is woefully inadequate for large and / or complex developments.

GMFRS is supportive of the principle that once construction has commenced, changes should not be made by the Principal Contractor without consultation with, and agreement by, the Client and Principal Designer. This should be clearly documented.

GMRS supports the principal that any major changes should be reported to and approved by the JCA as the regulator, before the work is carried out, and any application for approval of a variation should be countersigned by the Principal Contractor and Principal Designer with a statement as to what impact it has on the original design specifications.

GMFRS considers that all of the bulleted suggestions contained in Q2.23 are capable of constituting a major change and that more detailed consultation on this area will be required when there is greater clarity over the scope and operation of any new regime. Major change must incorporate changes to the intended use if they occur during construction.

GMFRS considers that the stipulation of clear timescales for all elements of any new statutory functions will be beneficial.

The requirement to register buildings is an important feature of the proposals, but in our view, this should be used as a mechanism to provide assurance, and support a form of redress for those who purchase properties. A provisional registration should be granted following approval at Gateway 2 that would set out the key conditions to be met through the design and construction phase, and specify the relevant dutyholders. It is common for purchase of flats to take place prior to completion of the development and this provisional registration would provide confidence, and more importantly protection, to purchasers, and would form the essential link that is required with the conveyancing process. The provisional registration could include

conditions in relation to key safety features that are phased as part of the construction and could be met during the construction phase. This would provide a clear link to the proposals to give phased approval, and would speed up the process of final registration of the building.

Any new regime should have clear sanctions. However, it is not clear how long the registration process would take and, therefore, the impact of not allowing registration prior to occupation. Consideration should be given to a 'certificate to occupy' as part of the compliance process for Gateway 2 that could be granted pending registration of the building. This would link clearly to provisional registration, as outlined above. In principle, the idea that a failure to register a building should be a criminal offence is supported, but this needs to align to key safety requirements rather than an administrative process.

Partial occupation should be allowed where there are adequate fire safety provisions and management of the arrangements. There will be occasions where work may be ongoing on the internal fit of some apartments, whilst others are completed. Providing the appropriate fire safety measures are in place, this should not prevent occupation. Again, this could be effectively managed through an approach of provisional registration and a 'certificate to occupy', as the register could be updated with the parts of the building that can be occupied. This approach should also incentivise additional safety provisions such as sprinklers. Where a sprinkler system has been installed and a commissioning certificate is in place, partial occupation of a building would be possible.

It is clear that some form of transitional arrangements will be required, but it will be necessary to ensure that this does not result in avoidance of the scheme by 'commencement' before the transitional date. For example, it is not clear how a development would come into scope of the scheme where an initial notice has been served by an Approved Inspector, but construction has not started. Consideration should be given to a requirement for any premises that has not been through Gateway 2 to provide and deposit full plans and enhanced information at Gateway 3.

Recommendations and findings

- **The principles of enhanced regulatory oversight at the design stage and a 'hard stop' prior to construction starting are welcomed. However, this should not be restricted to buildings over 18m, but form part of wider reform of the Building Control system.**
- **A requirement to submit full plans for any new development should be introduced as part of reform of the Building Control System.**
- **The co-ordination of this information is key. The person responsible for this can be determined on a development by development basis, providing the role is clearly identified, allocated to one dutyholder and documented**
- **For certain developments, a staged approach to construction would be appropriate. It should be incumbent on the client / Principal Designer to set out at an early stage in discussions with the regulator (the JCA), that**

an application for a staged approach will be made. A staged approached must be agreed by the JCA prior to any work commencing.

- **Any new regulatory regime must provide effective sanctions and a disincentive to non-compliance. Any work carried out without, or not in accordance with, the relevant approvals should be pulled down or removed, where this is necessary and proportionate. The regulator (the JCA) should have the power to prohibit further work being undertaken until non-compliant work has been rectified, where this necessary and proportionate.**
- **The regulator (the JCA) should be required to respond to Gateway 2 applications within a prescribed timescale, but any timescales should reflect the complexity and resourcing requirements, and should be variable dependent on the size of the development**
- **Once construction has commenced, changes should not be made by the Principal Contractor without consultation with, and agreement by, the Client and Principal Designer. This should be documented.**
- **Any major changes should be reported to and approved by the JCA as the regulator, before the work is carried out. Any application for approval of a variation should be countersigned by the Principal Contractor and Principal Designer with a statement as to what impact it has on the original design specifications.**
- **A provisional registration should be granted following approval at Gateway 2 that would set out the key conditions to be met through the design and construction phase, and specify the relevant dutyholders.**
- **The idea that a failure to register a building should be a criminal offence is supported, but this needs to align to key safety requirements.**
- **Partial occupation should be allowed where there are adequate fire safety provisions and management of the arrangements. This could be effectively managed through an approach of provisional registration and a 'certificate to occupy', as the register could be updated with the parts of the building that can be occupied. This approach should also incentivise additional safety provisions such as sprinklers**.
- **Consideration should be given to a requirement for any premises that has not been through Gateway 2 to provide full plans and enhanced information at Gateway 3.**

Gateway 3 - Safety Cases and building registration

GMFRS supports the principle of further embedding safety requirements in the management of buildings. It is our view that this requirement exists under the Fire Safety Order (FSO), but a formalised and structured approach will better ensure the safety of the public. As previously stated we are concerned that the implementation of a safety case approach to a narrow scope of buildings will create a two-tier system of safety and management. These proposals could be brought forward as regulations made under the FSO, as they clearly align to the requirements of Articles 9, 10 and 11.

We are supportive of a registration process and that ongoing management of fire safety should form part of these requirements, and be subject to regular review. As stated above, we consider that it is appropriate for the new national body to hold and maintain a register but that regulation, including an assessment of applications to register buildings and the application of any conditions, should be undertaken locally through a Joint Competent Authority (JCA).

We also support a clearer process for the transfer of accountability and declarations that construction has been undertaken in accordance with the plans. This will help drive compliance across the sector. As with Gateway 2, we consider this should form part of reform of the Building Control process and not be restricted to a narrow scope of buildings based on height thresholds.

As stated above, we consider that a provisional registration process would assist in embedding safety throughout all stages of the process and that this will afford appropriate assurance mechanisms. The principle of scrutiny by regulators is sound, but it is unclear how the proposal that the Safety Case must be scrutinised before a certificate is issued will work where partial occupation may be allowed. The Safety Case should not be seen as separate to the other requirements and something to be compiled and completed at the end of construction, but should be a document that evolves through all stages of the process.

The proposed content of the Safety Case is generally sound but many elements would not be available prior to occupation (e.g. evidence gained through regular inspection of the building and evidence of continuous improvement). Therefore, the initial Safety Case should set out the management arrangements for the building and the key safety features, and this could form part of provisional registration.

Care should be taken to ensure that other key and safety critical elements of building management are not neglected and that a holistic approach is taken to ensure adequate management of all areas - in particular the elements of health and safety management which form part of the Social Housing Regulatory Regime and the gas safety regime.

The registration scheme should be structured to allow the JCA as the regulator to determine the length of the certificate using a risk-based approach. This is the case with many other health and safety-based licensing regimes. The length of the certificate should vary from one to ten years, based on a holistic view of the risks within the building, and relevant information on the compliance history of dutyholders. This approach would again incentivise enhanced safety systems such as the use of sprinklers, which would reduce the risk profile of a building. The system should allow for periodic reviews where this is considered necessary, and the JCA should have the ability to direct a full review of the Safety Case at any point during the registration period. A more phased approach will offer a proportionate and manageable approach to regulation and assist in both incentivising and driving compliance.

The principle of applying conditions is supported but it is our view that the content of the conditions requires more detailed analysis and wider consultation. The current

proposals appear to cover a number of areas where other regulations apply and this is potentially problematic from a regulatory enforcement perspective. Licence conditions should not duplicate existing statutory requirements.

The costs of safety works are a significant problem for leaseholders. In Greater Manchester, this is the biggest barrier to ensuring essential fire safety works are carried out expediently. GMFRS raised this issue in our response to the Independent Review of Building Regulations and Fire Safety and addressing this will require considerable reform of the leasehold system. In some cases, the work required should not have been unanticipated, as it relates to the 'lifetime' of the products used and the manufacturers' specification. However, it is evident that these planned works were not explained clearly to those purchasing properties, and in some cases, there has been inadequate planning of service charges to develop the necessary funds. In order to mitigate the cost of crucial safety work, the Government should consider a statutory mechanism to require freeholders to provide funding for safety critical works and recover these over an extended period.

The transfer of a building safety certificate from one person to another should be via the new national body through the JCA. The JCA should have the opportunity to vary the conditions of the registration where necessary.

GMFRS is disappointed that the Government is still ignoring the evidence regarding the effectiveness of sprinklers. In Wales, sprinklers are mandatory in all new homes. In Scotland, legislation is going through that makes sprinkler installation mandatory in all houses in multiple occupation (HMO) with 10 or more residents, and in all HMO used for overnight "care". The current proposals do not reference sprinklers or indicate either any intention to mandate their use or encourage through recognition of the benefit they have to ensuring safety. There is a clear and obvious opportunity to incentivise the use of sprinklers through safety cases and the duration of a registration.

The current proposals have significant cost implications (particularly for existing residential buildings), specifically in compiling a safety file of information about the building. This safety file could cost an estimated £100,000 to produce. Whilst it would assist in assessing, it would not, of itself, deliver any enhancements. There is scope for money to be better spent on the enhancement of safety through the provision of sprinklers.

Recommendations and findings

- **The proposals for a further gateway prior to occupation and the principles of registering a building with the regulator (the JCA) and specifying the dutyholder are welcomed.**
- **A clearer process for the transfer of accountability, and declarations that construction has been undertaken in accordance with the plans, will assist in driving compliance across the sector. However, this should form part of reform of the Building Control process and not be restricted to a narrow scope of buildings based on height thresholds.**

- **Further embedding safety requirements in the management of buildings is welcomed. However, the implementation of a safety case approach to a narrow scope of buildings will create a two-tier system of safety and management. These proposals could instead be brought forward as regulations made under the FSO.**
- **It is appropriate for the new national body to hold and maintain a register, but regulation should be undertaken locally by a JCA.**
- **The principle of scrutiny by regulators is sound, but it is unclear how the proposal that the Safety Case must be scrutinised before a certificate is issued will work where partial occupation may be allowed. The Safety Case should not be seen as separate to the other requirements, but should be a document that evolves through all stages of the process.**
- **The proposed content of the Safety Case is generally sound, but many elements would not be available prior to occupation. The initial Safety Case should set out the management arrangements for the building and the key safety features, and this could form part of provisional registration.**
- **Care should be taken to ensure that other key and safety critical elements of building management are not neglected and that a holistic approach is taken.**
- **The registration scheme should be structured to allow the JCA as the regulator to determine the length of the certificate using a risk-based approach. This approach would incentivise enhanced safety systems such as the use of sprinklers.**
- **The scheme should allow for periodic reviews where this is considered necessary, and the JCA should have the ability to direct a full review of the safety case at any point during the registration period.**
- **The principle of applying conditions is supported, but the content of the conditions requires more detailed analysis and wider consultation. The current proposals appear to cover a number of areas where other regulations apply and this is potentially problematic from a regulatory enforcement perspective. Licence conditions should not duplicate existing statutory requirements.**
- **To mitigate the cost of crucial safety work, the Government should consider a statutory mechanism to require Freeholders to provide funding for safety critical works and recover these over an extended period.**
- **It is disappointing that the Government is still ignoring the evidence regarding the effectiveness of sprinklers. Gateway 3 is an opportunity to promote the benefits of sprinklers.**
- **The transfer of a building safety certificate from one person to another should be via the new national body, through the JCA. The JCA should have the opportunity to vary the conditions of the registration where necessary.**

- **The registration scheme for issuing of a building safety certificate provides a clear and transparent route for compliance. The scheme will provide both residents and the accountable person with clear guidance on their obligations in relation to keeping the building safe and a clear and transparent route for compliance by both parties.**

Building safety information

We welcome the proposal to have a "Golden Thread" of information. We believe that the government should mandate Business Information Modelling (BIM) standards for new buildings, from the design stage, through construction, to occupation, for the life of the building. This would assist in addressing problems across all sectors and assist those who buy or purchase both residential and commercial properties.

Currently building safety information is either not passed over in sufficient detail, or becomes lost – partially or wholly. Once the information is lost, it can incur significant costs for the various dutyholders. This can include undertaking extensive and often expensive building surveys, the testing of materials, or the creation of new fire strategies (safety cases) to show compliance with Regulations. Not having the salient information also adds considerably to the time taken to show a building is safe. If the building has interim measures in place (e.g. a waking watch) this means considerable extra expense for the responsible person / leaseholders / freeholder, depending on the individual circumstances. In this regard, a new robust system to ensure that relevant information remains easy to attain and understand for a building's whole life cycle is welcomed.

To mandate this for existing buildings may be too onerous and it should be a matter for the Joint Competent Authority (JCA) to specify what information is required on a case-by-case basis relevant to the risk and overall standard of the building. For instance, where a compartmentation survey has been undertaken and subsequent work carried out, this would be more proportionate than laser scanning of the building. Where there are other mitigating features, such as sprinklers, this may be proportionate to negate the need to compile certain information.

Recommendations and findings

- **The proposal to have a "Golden Thread" of information is welcomed. The government should mandate Business Information Modelling (BIM) standards for new buildings, from the design stage, through construction, to occupation, for the life of the building.**
- **To mandate this for existing buildings may be too onerous and the information required should be determined by the JCA on a case by case basis using a risk based approach**

Key Dataset

GMFRS is supportive of the principles of a key dataset. However, not all of the information proposed should be publicly available as this will raise issues in relation to commercial confidentiality, privacy (particularly where the accountable person is a

leasehold management company and / or a named individual is required) and security.

GMFRS is of the view that the following information should be publicly available UPRN; Location; Size; Building Type; Years Built & Refurbished; Dates and outcome of gateway points and safety case reviews.

The other elements of the key dataset should be gathered and accessible to those with an interest in the building.

GMFRS is concerned that only 'minimal information' on safety related features should form part of the key dataset. This information should be comprehensive on fire safety features and include location, manufacture details, anticipated lifespan, and date of installation.

GMFRS supports the principles of the Golden Thread of information, as the existing system is not working. The failure to comply with Regulation 38 of the Building Regulations and the absence of a requirement for information about a building to be transferred if ownership or management of building changes, has caused significant problems for responsible persons and leaseholders.

There are many examples in Greater Manchester where responsible persons have needed to undertake extensive and often expensive building surveys, testing of materials, and commissioning new fire strategies to demonstrate compliance with the Fire Safety Order. This is often due to either the loss of the original operation and maintenance manual; information for a premises (required under Reg.38 to be handed over on completion / occupation); or due to the original developer being reluctant to provide as-built information to the current owners / leaseholders of the premises who then incur significant expense for example in identifying the make-up of the external façade.

Not having the salient information also adds considerably to the time taken to demonstrate a building is safe, and if the building has interim measures in place, e.g. a wakeful watch, this means considerable extra expense for the responsible person and leaseholders, depending on the circumstances. In this regard, a new robust system to ensure that relevant information remains easy to attain and understand for a building's whole life is welcomed.

To mandate this for existing buildings may be too onerous. In our opinion, the requirement for information should be determined by the Joint Competent Authority on a proportionate risk basis, as discussed above.

Recommendations and findings

- **The principles of a key dataset are welcomed. However, not all of the information proposed should be publicly available as this will raise issues in relation to commercial confidentiality, privacy (particularly where the accountable person is a leasehold management company and / or a named individual is required) and security.**

- **Providing only ‘minimal information’ on safety related features within the key dataset is not welcomed. Information on fire safety features should be comprehensive.**
- **A new robust system to ensure that relevant building safety information remains easy to attain and understand for a building’s whole life is welcomed.**
- **To mandate this for existing buildings may be too onerous. The requirement for this information should be determined by the JCA on a risk basis.**

Mandatory Occurrence Reporting and Whistleblowing

GMFRS is supportive of mandatory occurrence reporting and consider this should form part of the new regime. The requirement for an adequate process should form part of the provisional registration process and reporting should be to the Joint Competent Authority (JCA). The outputs of these reports (and statistical analysis of this data) should be publicly available. Non-reporting should be regarded as non-compliance and sanctions applied appropriately.

The model used by the aviation industry is one to consider adapting. In the aviation industry, mandatory occurrence reporting is regulated by the Civil Aviation Authority (the CAA). It requires the reporting, analysis and follow up of occurrences in civil aviation and delivers a European Just Culture Declaration. An occurrence means any safety-related event which endangers or which, if not corrected or addressed, could endanger an aircraft, its occupants or any other person. The purpose of occurrence reporting is to improve aviation safety by ensuring that relevant safety information relating to civil aviation is reported, collected, stored, protected, exchanged, disseminated and analysed. It is not to attribute blame or liability.

The timeframe for mandatory reporting requires further detailed analysis once there is more detail available as to how the regime may work. The scope of mandatory occurrence reporting should cover any deviation or non-compliance with the Building Regulations where this would pose a risk and not be restricted to fire and structural issues. There is no justification for not introducing this in relation to other elements that relate to safety of the building and health of the potential occupiers.

GMFRS is supportive of the principle of introducing whistleblowing protection and consider this should be a function of the national body who should then report concerns through the JCA to investigate. The introduction of protection to whistle-blowers (subject to clearly defined categories) will assist in promoting a safety culture across the industry and throughout the life cycle of a building.

Again, the model used by the aviation industry is one to consider adapting. In the aviation industry, the CAA is a “prescribed person” under the Public Interest Disclosure Act 1998 for the purpose of receiving “protected disclosures” (whistleblowing) from the civil aviation industry. They are directly responsible for investigating any information of this nature that is received. A worker may make a complaint to the Employment Tribunal if he or she suffers a detriment as a result of making a “protected disclosure”. An employee will be regarded as having been

unfairly dismissed if the reason or principal reason for their dismissal is the making of a protected disclosure. On occasion, the CAA will receive allegations/complaints that may not be classed as whistleblowing and as such, the protection to the source is not that afforded to whistleblowers.

Recommendations and findings

- **Mandatory occurrence reporting is welcomed. Non-reporting should be regarded as non-compliance and sanctions applied appropriately.**
- **Protection for whistleblowing is welcomed**

Residents at the heart of a new regulatory system

Chapter 4, Questions 5.1-5.9

GMFRS agrees with the proposals to clarify and strengthen the requirements to provide information about the safety provisions within buildings and safety information to residents.

The proposals within the consultation, fail to recognise the complexities for achieving this, which will need to account for the tiers of relationships within high rise buildings - superior landlords; leasehold management companies / RTMs; managing agents; leaseholders who may be owner occupiers or landlords; occupiers; and potentially letting and managing agents of individual flats. It is unclear as to how 'resident' is being defined and how this will work where flats are being utilised as commercial short-term lettings.

There needs to be a clear link between the provision of safety information and the conveyancing process.

In our experience many residents are not aware of and / or do not understand many of their buildings fire safety measures and in some cases feel they have no effective recourse through building managers/agents. Some residents have been frustrated by the lack of accessible information about their building. However, there are other instances where residents refuse to co-operate with building managers and frustrate attempts to ensure the safe management of the building. It is also our experience that many residents are not interested or engaged in the fire safety arrangements for the building.

CASE STUDY

GMFRS required an evacuation drill to be undertaken in a building that had adopted interim measures. A significant number of residents failed to evacuate and of those who did, many did not proceed to the muster point. When spoken to, many admitted to being aware of the fire action notices and having received information but not having read or considered it. This was exacerbated by a high level of short-term lettings at the building in question.

GMFRS is supportive of the requirement for the provision of information, but this needs to be done in a proportionate manner that will not impose significant and

additional costs on residents, particularly where this will be met through service charges.

It is our view that the core information proposed should be made available and accessible to all residents, and that key information should be displayed in the building that would direct people to the relevant information in more detail. It should be a requirement that the information is available in accessible formats.

GMFRS supports the culture of openness and considers that the information set out in paragraph 258 should be available and accessible to everyone in the building through a digital repository, and that requests for this in a different format must be complied with. This will offer a more proportionate and cost effective mechanism than dealing with individual requests for information.

GMFRS is of the view that a nominated person should be able to request this on behalf of a resident and that this should not be tightly prescribed or restricted to residents who have been deemed 'vulnerable', as there is no indication as to how this will be determined.

GMFRS supports the proposal that a resident engagement strategy should be required, but considers that further detailed consultation on this area and concept testing should be required. In our experience, many housing providers already have multiple engagement mechanisms in place and the provision of guidance and support should build on existing good practice.

There should be a clear and properly resourced arbitration process for the resolution of disputes over the provision of information. It is suggested that this should be a function of the Joint Competent Authority (JCA) that is properly resourced with appropriately skilled personnel.

It is vital that the residents should feel confident enough to report any failings within the premises. There should be a transparent communication system in place that flows both ways, that is regularly checked by accountable persons from both the housing provider and the residents, and takes the form of communication pathways that can be used and understood by all residents regardless of age, gender or nationality.

Complaints should be dealt with swiftly and the complainant should be notified of the complaint's progression through the system with either one to one feedback or written documentation, if required. There should also be a pathway for the complaint to remain confidential, if they feel the need. In all cases, there should be a recorded trail from the moment a complaint is made to the final outcome, and this should be all within a pre-determined time.

It is the view of GMFRS that there is a clear divide in this area between social and private housing. Within the social housing sector, there are clearly established complaints procedures and, where complaints cannot be resolved, access to the Housing Ombudsman.

This is not reflected in private developments and there is little effective redress for individual leaseholders concerned about fire safety beyond a complaint to the fire

and rescue service (FRS) or local authority and / or collectively to trigger a change of management which can be time consuming and costly.

Consideration should be given to extending the remit of the Housing Ombudsman or making membership compulsory for those involved in the management of residential developments.

As stated above any new approach should be extended beyond the narrow scope suggested in the proposals.

GMFRS believes there needs to be an escalation route for residents with concerns, but considers that an independent body is not an appropriate way to achieve this. As a regulator, the JCA should have the resources and powers to act on residents' concerns and respond appropriately, and this should be the redress for residents whose concerns have not been addressed by the dutyholder.

If residents are dissatisfied with the action taken by the JCA, one of the existing redress schemes should be available. It would be necessary to determine which of the existing ombudsmen would have primacy for the JCA – the Local Government Ombudsman as the ombudsman for local authorities and FRSs, or the Parliamentary and Health Service Ombudsman as the ombudsman for the Health and Safety Executive. Alternatively, consideration of complaints in relation to the functions of any of the bodies forming part of the JCA could be a function of the new national body.

Any mechanisms for redress should ensure there is parity for those living in social and private housing.

GMFRS is supportive of the proposals to introduce statutory requirements on residents and considers that this should include a general requirement to co-operate in all safety aspects of a buildings safety management, from reporting defects to fire doors to removal of self-closing devices, failure of alarm systems and any alterations which would affect the buildings ability to perform as designed in a fire situation.

In addition, there should be specific statutory responsibilities that cover:

- Notification to the accountable person and / or Building Safety Manager (BSM) of any proposed works internally and affecting common services including changing doors.
- A requirement to obtain written permission for any works affecting the fire and structural safety features of the building.
- A requirement to allow access to the dwelling with reasonable notice for inspection of fire and structural safety measures.
- Notification to the accountable person and / or BSM of any change of use to the premises (for example, running small business, storing hazardous materials, the use of the premises for short-term lettings).
- An obligation not to interfere with fire safety provisions.
- An obligation not to endanger the safety of other relevant persons.

The principles within these proposals should not be restricted to buildings within scope but applied to all multi-occupied residential buildings. This should be introduced at an early stage through regulations made under the Fire Safety Order. These requirements should be enforced through the JCA for buildings in scope of a new regime and fire and rescue authorities in other residential buildings.

Recommendations and findings

- **GMFRS supports proposals to ensure that information is available to and accessible by residents.**
- **The provision of information to residents could and should be introduced through regulations made under the FSO and introduced at an early stage for all multi-occupied residential buildings.**
- **The principle of a resident engagement strategy is sound but requires further consideration to ensure it as appropriate for all tenures, models of ownership and occupation of buildings.**
- **GMFRS supports the proposals for statutory requirements for residents and this should include a general obligation to co-operate and co-ordinate and specific obligations not to interfere with fire safety features.**
- **Residents' responsibilities could and should be created through regulations made under the FSO and introduced at an early stage for all multi-occupied residential buildings.**
- **The requirements for resident engagement and responsibility should be enforced through the JCA and the FRA for buildings out of scope.**

Enforcement, Compliance and Sanctions

Chapter 6, Questions 9.1-9.6

GMFRS considers that effective enforcement and sanctions are, and will continue to be, necessary to ensure and drive compliance and act as a deterrent to non-compliance. Effective enforcement is reliant on adequate resourcing and this is an area that must be considered by Government.

The three-step approach proposed in the consultation reflects the approach to regulation currently taken and presents an appropriate approach to regulation, however enforcement decisions should always be taken based on the circumstances of the individual case and enforcement should not be restricted by a failure to take other steps.

GMFRS is concerned that the consultation proposals set out in paragraph 360 fail to adequately distinguish between a failure to comply in the form of a breach or an offence. A breach may result in the provision of advice or guidance, or formal enforcement action, whereas offences should always be treated with appropriate gravity and require appropriate investigation.

GMFRS is supportive of the proposals to introduce criminal offences for failures to comply at, or between, Gateways and failing to comply with the conditions of a building registration certificate. GMFRS considers that there should be detailed consideration

of the appropriate level of offences and potential sentences to reflect the seriousness of the non-compliance. For example, commencing work without approval should arguably be a more serious offence than a shortcoming in the resident engagement strategy.

GMFRS is supportive in principle of consideration of a Civil Penalty Scheme, but considers that this should be confined to those Dutyholders involved at the Design and Construction phase as commercial and profit making entities. In our view, a regime of civil penalties would not be appropriate for 'Accountable Persons' or 'Building Safety Managers'. For most residential buildings, irrespective of tenure, this would have a detrimental impact on the residents, as costs would be met either through revenue accounts or service charges.

As outlined above, and in our previous consultation responses, it is the position of GMFRS that the current Building Control system is broken and requires significant reform. If a building complies with the building regulations, it should have adequate physical fire precautions. However, a failure to comply with the building regulations which has not been identified as part of the building regulation approval process may not easily be identified under other regulatory regimes and in some cases may only become evident following a significant event and some time after the completion of the building.

The Building Control process, through regular inspections during works, should be sufficient to drive compliance. However, this is not done in a consistent manner and the opening up of the market to competition has resulted in a disincentive to building control inspectors to carry out adequate numbers of inspections as it is not commercially viable to do so. Where the Approved Inspector' route is taken the suspension of the LABC enforcement powers means there is little remedy available even where there is evidence that work may not comply with the regulations there is no effective enforcement.

The current limitation period for prosecutions under the Building Act places an unnecessary restriction on effective enforcement action and is a detriment to those parties who suffer as a direct result of work being undertaken which does not comply.

GMFRS is supportive of proposals to ensure that any limitation period in relation to defective and non-compliant work should commence from discovery and considers that there should be no statutory time limit for enforcement action under the Building Act. If a time limit is necessary for enforcement action, it should not include prosecutions to provide consistency between offences committed under the Building Act, Fire Safety Order and Health and Safety at Work Act.

Recommendations and findings

- **Robust sanctions and enforcement options are necessary to drive compliance and act as a deterrent to non-compliance.**
- **The appropriate enforcement action should be determined in relation to the gravity of the non-compliance.**

- **The proposed criminal offences are appropriate but consideration needs to be given to the potential sentences.**
- **Civil Penalties are appropriate for Dutyholders involved at the Design and Construction phase, as these are generally commercial and profitmaking.**
- **Civil Penalties are unlikely to be appropriate at the occupation phase, as this would ultimately affect residents.**
- **Any limitation period required for enforcement under the Building Act should run from discovery**
- **The limitation period for prosecutions under the Building Act should be removed entirely.**

Appendix 1: Question responses

Our proposals for a new building safety regime are included in the main body of this document. The answers within this appendix have been provided to support any statistical analysis of the specific questions.

Chapter 2: Stronger requirements for multi-occupied high-rise residential buildings

Q. 1.1: Do you agree that the new regime should go beyond Dame Judith's recommendation and initially apply to multi-occupied residential buildings of 18 metres or more (approximately 6 storeys)? Please support your view.

GMFRS agrees that the scope of regulation should be broader than Dame Judith's recommendation of buildings over 30 metres.

GMFRS does not agree that a height threshold is an appropriate determinant of risk in buildings and does not consider that there is justification of an enhanced regulatory regime that would only apply to buildings over 18 metres.

The Building Control process is not fit for purpose and needs to be reformed as a whole, beyond the narrow scope of the proposed new regime.

The scope of any new regime should be determined by a building's risk, not by its height.

If the Government does not wish to consider building safety in the whole, but limit the scope to the regulation of high-rise residential buildings, then the height threshold should be reduced to 11m.

Q. 1.2: How can we provide clarity in the regulatory framework to ensure fire safety risks are managed holistically in multi-occupied residential buildings?

GMFRS has addressed this question in the body of our submission.

The Fire Safety Order (FSO) provides an adequate framework for managing fire safety in high-rise buildings, where it is complied with, and those responsible for the building understand their obligations and have the requisite competency meet those obligations.

If the FSO were to be disapplied to the common parts of multi-occupied buildings, members of the public living in these buildings would be at increased risk.

The disapplication of the FSO would leave short-term lettings inadequately regulated and remove the statutory requirement for persons with responsibility to co-operate and co-ordinate. This would potentially create significant risks about the management of fire safety arrangements for the building.

The fire at Grenfell Tower demonstrates the importance of a knowledge and understanding of the features of a building, and how it should perform in a fire. Any disapplication of the FSO to the common parts of multi-occupied residential buildings would remove an essential link between fire and rescue service's protection activity and response functions. This will reduce our ability to monitor and understand conditions within a building, negatively affecting our response to a fire and placing the public and firefighters at greater risk.

Q. 1.3: If both regimes are to continue to apply, how can they be improved to complement each other?

GMFRS has addressed this question in the body of our submission.

The FSO and the Housing Act 2004 complement each other to ensure the safety of relevant persons in multi-occupied buildings. The mechanism for ensuring this is through adequate guidance and effective partnership working.

The definitions within the FSO should be revised and updated, including a statutory definition of 'common parts'.

The Government should produce an HM Government Guide for Fire Safety in multi-occupied residential buildings. The guidance should include, as a minimum, all flats, irrespective of height and tenure, and should specifically address all uses including serviced apartments and short-term lettings, where these form part of the use of the building.

There should be a requirement in all multi-occupied buildings for the responsible person to be clearly identified and for this to be recorded and published alongside the identity of all other parties with responsibility for fire safety within the building.

Q. 1.4: What are the key factors that should inform whether some or all non-residential buildings which have higher fire rates should be subject to the new regulatory arrangements during the design and construction phase? Please support your view.

GMFRS has addressed this question in the body of our submission.

It is our view that use and occupancy are key factors in determining risk. However, fundamental reform of the Building Control system and the systemic industry failures identified in the final report of the Independent Review of Building Regulations and Fire Safety are required to ensure the safety of all new developments.

The scope of any new regime should be determined by a building's risk, not by its height.

Q.1.5: Linked to your answer above, which of the 'higher-risk workplaces' in paragraph 42 would you consider to be higher-risk during the design and construction phase?

GMFRS has addressed this question in the body of our submission.

Any building that is not designed and / or constructed to the relevant standard poses a risk to those who occupy it following completion. This risk is higher where a premises is used for sleeping accommodation. The reference to these as 'higher risk workplaces' is unhelpful and misleading.

Q. 1.6: Please support your answer above, including whether there are any particular types of buildings within these broad categories that you are particularly concerned about from a fire and structural perspective?

GMFRS has addressed this question in the body of our submission.

Any building that is not designed or constructed to the appropriate standard poses a concern from a fire safety perspective. GMFRS has numerous examples where construction that has not been carried out in accordance with the Building Regulations, poses an unacceptable risk to safety of occupiers. This ranges from purpose built and converted flats to modifications undertaken to commercial premises and HMOs without the relevant building control approvals.

For these reasons, GMFRS considers that radical reform of the Building Control system is required for all new developments to avoid a two-tier system of regulation and safety.

Q. 1.7: On what basis should we determine whether some or all categories of supported/sheltered housing should be subject to the regulatory arrangements that we propose to introduce during the occupation stage? Please support your view.

GMFRS, along with a number of other fire and rescue services, considers supported and sheltered housing to represent a high risk due to the use and occupancy and, in particular, the vulnerability of residents. However, the proposals being consulted on will not adequately address the risks and issues specific to specialised housing.

Even if the scope of the new regime were expanded, the proposals would not adequately address the risks in specialised housing and care homes.

Q. 1.8: Where there are two or more persons responsible for different parts of the building under separate legislation, how should we ensure fire safety of a whole building in mixed use?

GMFRS has addressed this question in the body of our submission.

There are adequate provisions under the FSO to require co-operation and co-ordination.

Chapter 3: A new dutyholder regime for residential buildings of 18m or more

Q. 2.1: Do you agree that the duties set out above are the right ones?

GMFRS has addressed this question in the body of our submission.

The principle that ongoing fire safety responsibilities throughout the life cycle of a building should be clear to dutyholders is welcomed, as are the sanctions for those who fail to fulfil these responsibilities.

The proposal to introduce specified duty holders with clear legal accountabilities at stages of the buildings life cycle is welcomed. However, this should be applied wider than buildings above 18m.

If the dutyholder regime is only applied to a limited number of buildings, it will create a two-tier system of management of occupied buildings.

Further consideration to the extent of the duties proposed, and how these align to current industry norms, is required.

Q. 2.2: Are there any additional duties which we should place on dutyholders? Please list.

GMFRS has addressed this question in the body of our submission.

Q. 2.3: Do you consider that a named individual, where the dutyholder is a legal entity, should be identifiable as responsible for building safety? Please support your view.

The proposals for named individuals to be accountable where the dutyholder is a legal entity, may not be the most appropriate mechanism for embedding accountability, and it is not clear how this would work within all structures. The current mechanisms available within the Health and Safety at Work Act (s.37) and the FSO (Art. 32(8)) might be more appropriate.

Q. 2.4: Do you agree with the approach outlined above, that we should use Construction (Design and Management) Regulations 2015 (CDM) as a model for developing dutyholder responsibilities under building regulations? Please support your view.

GMFRS has addressed this question in the body of our submission.

In principle, the CDM Regulations provide a starting point, however, further consideration to the extent of the duties proposed and how these align to current industry norms is required.

Q. 2.5: Do you agree that fire and rescue authorities should become statutory consultees for buildings in scope at the planning permission stage? If yes, how can we ensure that their views are adequately considered? If no, what alternative mechanism could be used to ensure that fire service access issues are considered before designs are finalised?

Yes.

The introduction of the Gateways and the designation of fire and rescue authorities (FRAs) as statutory consultees for planning purposes is welcomed and this should go beyond the narrow scope of the current proposals.

At the planning stage, FRAs should be statutory consultees as part of the Joint Competent Authority (JCA) for all new developments (residential and non-residential) regarding the requirements for fire service access and water supply.

Q. 2.6: Do you agree that planning applicants must submit a Fire Statement as part of their planning application? If yes, are there other issues that it should cover? If no, please support your view including whether there are alternative ways to ensure fire service access is considered.

Yes.

The Fire Statement should consider not only fire response requirements for the proposed development but also how this will impact nearby buildings / infrastructure. This would help develop a focus on the resilience of buildings, not just the ability of occupants to evacuate / be rescued should a fire occur.

Q. 2.7: Do you agree that fire and rescue authorities should be consulted on applications for developments within the 'near vicinity' of buildings in scope? If so, should the 'near vicinity' be defined as 50m, 100m, 150m or other. Please support your view.

Yes. Fire's involvement at the Planning stage is vital in terms of firefighter access. This includes road layout to allow fire engines to get to a building; and layout and parking at the building to allow a fire engine to get close enough to pump water onto it.

As a minimum, GMFRS supports the proposals for FRAs to be statutory consultees for buildings in scope and within a vicinity of 150 metres of buildings in scope.

Q. 2.8: What kind of developments should be considered?

- *All developments within the defined radius,*
- *All developments within the defined radius, with the exception of single dwellings,*
- *Only developments which the local planning authority considers could compromise access to the building(s) in scope,*
- *Other.*

All developments within the defined radius.

Q. 2.9: Should the planning applicant be given the status of a Client at gateway one? If yes, should they be responsible for the Fire Statement? Please support your view.

Yes. This will be the most effective way of ensuring safety is embedded at all stages of design and planning.

Q. 2.10: Would early engagement on fire safety and structural issues with the building safety regulator prior to gateway two be useful? Please support your view

Yes. Early engagement is a mechanism to encourage and ensure assistance with compliance. This should be adequately resourced.

Q. 2.11: Is planning permission the most appropriate mechanism for ensuring developers consider fire and structural risks before they finalise the design of their building? If not, are there alternative mechanisms to achieve this objective?

GMFRS has addressed this question in the body of our submission.

Planning is the most appropriate and proportionate mechanism for ensuring access and water supplies are considered at an early stage.

Q. 2.12: Do you agree that the information at paragraph 89 is the right information to require as part of gateway two? Please support your view.

Yes.

GMFRS has addressed this question in the body of our submission.

The principles of enhanced regulatory oversight at the design stage and a 'hard stop' prior to construction starting are welcomed. However, this should not be restricted to buildings over 18m, but form part of wider reform of the Building Control system.

A requirement to submit full plans for any new development should be introduced as part of reform of the Building Control System.

Q. 2.13: Are these the appropriate dutyholders to provide each form of information listed at paragraph 89?

No response to this question

Q. 2.14: Should the Client be required to coordinate this information (on behalf of the Principal Designer and Principal Contractor) and submit it as a package, rather than each dutyholder submit information separately?

The co-ordination of this information is key. The person responsible for this can be determined on a development-by-development basis, providing the role is clearly identified, allocated to one dutyholder and documented.

Q. 2.15: Do you agree that there should be a 'hard stop' where construction cannot begin without permission to proceed? Please support your view

Yes.

GMFRS has addressed this question in the body of our submission.

The principles of enhanced regulatory oversight at the design stage and a 'hard stop' prior to construction starting are welcomed. However, this should not be restricted to buildings over 18m, but form part of wider reform of the Building Control system.

Q. 2.16: Should the building safety regulator have the discretion to allow a staged approach to submitting key information in certain circumstances to avoid additional burdens? Please support your view.

Yes.

GMFRS has addressed this question in the body of our submission.

For certain developments, a staged approach to construction would be appropriate. It should be incumbent on the Client / Principal Designer to set out at an early stage, in discussions with the regulator (the JCA), that an application for a staged approach will be made. A staged approached must be agreed by the JCA prior to any work commencing.

Q. 2.17: Do you agree that it should be possible to require work carried out without approval to be pulled down or removed during inspections to check building regulations compliance? Please support your view.

Yes.

GMFRS has addressed this question in the body of our submission.

Any new regulatory regime must provide effective sanctions and a disincentive to non-compliance. Any work carried out without, or not in accordance with, the relevant approvals should be pulled down or removed, where this is necessary and proportionate.

Q. 2.18: Should the building safety regulator be able to prohibit building work from progressing unless non-compliant work is first remedied? Please support your view

Yes.

GMFRS has addressed this question in the body of our submission.

The regulator (the JCA) should have the power to prohibit further work being undertaken until non-compliant work has been rectified, where this necessary and proportionate.

Q. 2.19: Should the building safety regulator be required to respond to gateway two submissions within a particular timescale? If so, what is an appropriate timescale?

Yes.

GMFRS has addressed this question in the body of our submission.

The regulator (the JCA) should be required to respond to Gateway 2 applications within a prescribed timescale, but any timescales should reflect the complexity and resourcing requirements, and should be variable dependent on the size of the development.

Q. 2.20: Are there any circumstances where we might need to prescribe the building safety regulator's ability to extend these timescales? If so, please provide examples

GMFRS has addressed this question in the body of our submission.

Q. 2.21: Do you agree that the Principal Contractor should be required to consult the Client and Principal Designer on changes to plans?

Yes.

GMFRS has addressed this question in the body of our submission.

Once construction has commenced, changes should not be made by the Principal Contractor without consultation with, and agreement by, the Client and Principal Designer. This should be documented.

Q. 2.22: Do you agree that the Principal Contractor should notify the building safety regulator of proposed major changes that could compromise fire and structural safety for approval before carrying out the relevant work?

Yes.

GMFRS has addressed this question in the body of our submission.

Any major changes should be reported to and approved by the JCA as the regulator, before the work is carried out. Any application for approval of a variation should be countersigned by the Principal Contractor and Principal Designer with a statement as to what impact it has on the original design specifications.

Q. 2.23: What definitions could we use for major or minor changes?

- *Any design change that would impact on the fire strategy or structural design of the building;*
- *Changes in use, for all or part of the building;*
- *Changes in the number of storeys, number of units, or number of staircase cores (including provision of fire-fighting lifts);*
- *Changes to the lines of fire compartmentation (or to the construction used to achieve fire compartmentation);*
- *Variations from the design standards being used;*
- *Changes to the active/passive fire systems in the building;*
- *Other – please specify*

GMFRS has addressed this question in the body of our submission.

Q. 2.24: Should the building safety regulator be required to respond to notifications of major changes proposed by the dutyholder during the construction phase within a particular timescale? If yes, what is an appropriate timescale?

Further detail on the proposals is required in order to address this question.

Q. 2.25: What are the circumstances where the Government might need to prescribe the building safety regulator's ability to extend these timescales?

Further detail on the proposals is required in order to address this question.

Q. 2.26: 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.

Yes. This will ensure that there are clear accountabilities for the safety of the design and construction of buildings.

Q. 2.27: Should the building safety regulator be required to respond to gateway three submissions within a particular timescale? If so, what is an appropriate timescale?

Further detail on the proposals is required in order to address this question.

Q. 2.28: Are there any circumstances where we might need to prescribe the building safety regulator's ability to extend these timescales? If so, please support your view with examples

Further detail on the proposals is required in order to address this question.

Q. 2.29: Do you agree that the accountable person must apply to register and meet additional requirements (if necessary) before occupation of the building can commence? Please support your view.

Yes.

GMFRS has addressed this question in the body of our submission.

A clearer process for the transfer of accountability, and declarations that construction has been undertaken in accordance with the plans, will assist in driving compliance across the sector. However, this should form part of reform of the Building Control process and not be restricted to a narrow scope of buildings based on height thresholds.

A provisional registration should be granted following approval at Gateway 2 that would set out the key conditions to be met through the design and construction phase, and specify the relevant dutyholders.

Q. 2.30: Should it be an offence for the accountable person to allow a building to be occupied before they have been granted a registration for that building? Please support your view.

Yes.

GMFRS has addressed this question in the body of our submission.

The idea that a failure to register a building should be a criminal offence is supported, but this needs to align to key safety requirements.

Q. 2.31: Do you agree that under certain circumstances partial occupation should be allowed? If yes, please support your view with examples of where you think partial occupation should be permitted

Yes.

GMFRS has addressed this question in the body of our submission.

Partial occupation should be allowed where there are adequate fire safety provisions and management of the arrangements. This could be effectively managed through an approach of provisional registration and a 'certificate to occupy', as the register could be updated with the parts of the building that can be occupied. This approach should also incentivise additional safety provisions such as sprinklers.

Q. 2.32: Do you agree with the proposal for refurbished buildings? Please support your view

Yes. GMFRS agrees that buildings undergoing significant refurbishment or change of use should be subject to the same degree of regulatory oversight.

Q. 2.33: Do you agree with the approach to transitional arrangements for gateways? If not, please support your view or suggest a better approach?

GMFRS has addressed this question in the body of our submission.

There are concerns that transitional arrangements will need to be managed to prevent speculative applications to avoid the requirements of a new regime.

Q. 3.1: Do you agree that a safety case should be subject to scrutiny by the building safety regulator before a building safety certificate is issued? Please support your view.

GMFRS has addressed this question in the body of our submission.

The principle of scrutiny by regulators is sound, but it is unclear how the proposal that the Safety Case must be scrutinised before a certificate is issued will work where partial occupation may be allowed. The Safety Case should not be seen as separate to the other requirements, but should be a document that evolves through all stages of the process.

A system of provisional registration would assist in addressing this.

Q. 3.2: Do you agree with our proposed content for safety cases? If not, what other information should be included in the safety case?

GMFRS has addressed this question in the body of our submission.

The proposed content of the safety case are generally sound but many elements would not be available prior to occupation. The initial Safety Case

should set out the management arrangements for the building and the key safety features, and this could form part of provisional registration.

Care should be taken to ensure that other key and safety critical elements of building management are not neglected and that a holistic approach is taken.

Q. 3.3: Do you agree that this is a reasonable approach for assessing the risks on an ongoing basis? If not, please support your view or suggest a better approach

GMFRS has addressed this question in the body of our submission.

Q. 3.4: Which options should we explore, and why, to mitigate the costs to residents of crucial safety works?

There is an important distinction between responsibility and liability. If it is found that a building has been constructed incorrectly, the liability for meeting the costs of the remediation work is legally complex and time-consuming. Simplifying and making consistent the governance and responsibilities of buildings, both in scope and other residential buildings, would enable a clear understanding for all stakeholders. However, without wider reform of the leasehold system, this will not prevent difficulties related to funding the work.

To mitigate the cost of crucial safety work, the Government should consider a statutory mechanism to require freeholders to provide funding for safety critical works and recover these over an extended period.

Q. 3.5: Do you agree with the proposed approach in identifying the accountable person? Please support your view.

No.

GMFRS has addressed this question in the body of our submission.

The concept of an 'accountable person' for buildings in occupation is logical and would assist in ensuring clearly defined responsibilities. However, the proposals do not identify how they differ from the current responsibilities imposed by the FSO.

The current proposals for an 'accountable person' will not address the significant problem of liability to meet the cost of works.

Q. 3.6: 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.

Yes.

GMFRS has addressed this question in the body of our submission.

Further detailed analysis of the proposals in relation to different models of ownership and management is required.

Q. 3.7: Do you agree that the accountable person requirement should be introduced for existing residential buildings as well as for new residential buildings? Please support your view.

See response to *3.5*

The concept of an 'accountable person' for buildings in occupation is logical and would assist in ensuring clearly defined responsibilities. However, the proposals do not identify how they differ from the current responsibilities imposed by the FSO.

This issue could be addressed across all multi-occupied residential buildings via regulations introduced under the FSO requiring the identity of all responsible persons to be displayed in the common parts of complex properties (including multi-occupied residential and mixed-use high-rise building), and the extent of their responsibilities.

Q. 3.8: Do you agree that only the building safety regulator should be able to transfer the building safety certificate from one person/entity to another? Please support your view.

Yes.

The transfer of a building safety certificate from one person to another should be via the new national body, through the JCA. The JCA should have the opportunity to vary the conditions of the registration where necessary.

Q. 3.9: Do you agree with the proposed duties and functions of the building safety manager? Please support your view.

Yes.

GMFRS has addressed this question in the body of our submission.

In principle, the proposed duties and functions are supported. Further analysis on how this will work in practice is required.

The effective management of fire safety in buildings requires all involved to have an appropriate degree of knowledge and understanding of key fire safety provisions relevant to their role. Further competency requirements for roles below the BSM must be considered and implemented.

Q. 3.10: Do you agree with the suitability requirements of the building safety manager? Please support your view

GMFRS has addressed this question in the body of our submission.

The proposals do not make clear whether the BSM role is envisaged to be undertaken by a legal entity, an individual, or either. It is not clear, therefore, how the registration process would work, and how this would impact on existing arrangements and contracts for the management of buildings

Q. 3.11: Is the proposed relationship between the accountable person and the building safety manager sufficiently clear? Please support your view.

No. See *3.10.*

The proposals do not make clear whether the BSM role is envisaged to be undertaken by a legal entity, an individual, or either. It is not clear, therefore, how the registration process would work, and how this would impact on existing arrangements and contracts for the management of buildings

A scheme of 'licensing' or 'registration' of BSMs based on competency, would offer a more proportionate and effective approach than assessing this on a building-by-building basis. There should be a requirement imposed on accountable persons to only employ a registered or licensed BSM.

Q. 3.12: Do you agree with the circumstances outlined in which the building safety regulator must appoint a building safety manager for a building? Please support your view

No.

GMFRS has addressed this question in the body of our submission.

If a regulator is to have the ability to appoint a BSM, this should be a measure of last resort. In the first instance, there should be a mechanism whereby a direction can be issued to the accountable person to appoint a licensed BSM within a specified time frame.

More consideration needs to be given as to how any appointment of a BSM by a regulator would work in relation to the other management functions in multi-occupied residential buildings.

Q. 3.13: Do you think there are any other circumstances in which the building safety regulator must appoint a building safety manager for a building? Please support your view with examples.

See *3.12*

Q. 3.14: Under those circumstances, how long do you think a building safety manager should be appointed for?

NA

Q. 3.15: Under what circumstances should the appointment be ended?

NA

Q. 3.16: Under those circumstances, how do you think the costs of the building safety manager should be met? Please support your view.

GMFRS has addressed this question in the body of our submission.

Further analysis in this area is required.

More consideration needs to be given as to how any appointment of a BSM by a regulator would work in relation to the other management functions in multi-occupied residential buildings.

Q. 3.17: Do you agree that this registration scheme involving the issue of a building safety certificate is an effective way to provide this assurance and transparency? If not, please support your view and explain what other approach may be more effective

Yes.

The registration scheme for issuing of a building safety certificate provides a clear and transparent route for compliance. The scheme will provide both residents and the accountable person with clear guidance on their obligations in relation to keeping the building safe and a clear and transparent route for compliance by both parties.

Q. 3.18: Do you agree with the principles set out in paragraphs 180 and 181 for the process of applying for and obtaining registration?

GMFRS has addressed this question in the body of our submission.

The registration scheme should be structured to allow the JCA as the regulator to determine the length of the certificate using a risk-based approach. This approach would incentivise enhanced safety systems such as the use of sprinklers.

The scheme should allow for periodic reviews where this is considered necessary, and the JCA as the regulator should have the ability to direct a full review of the safety case at any point during the registration period.

Q. 3.19: Do you agree with the suggested approach in paragraph 183, that the building safety certificate should apply to the whole building? Please support your view

Care should be taken to ensure that other key and safety critical elements of building management are not neglected and that a holistic approach is taken.

Q. 3.20: Do you agree with the types of conditions that could be attached to the building safety certificate? Please support your view.

The principle of applying conditions is supported, but the content of the conditions requires more detailed analysis and wider consultation. The current proposals appear to cover a number of areas where other regulations apply and this is potentially problematic from a regulatory enforcement perspective. Licence conditions should not duplicate existing statutory requirements.

Q. 3.21: Do you agree with the proposals outlined for the duration of building safety certificates? If not, please support your view.

The registration scheme should be structured to allow the JCA as the regulator to determine the length of the certificate using a risk-based approach. This approach would incentivise enhanced safety systems such as the use of sprinklers.

Q. 3.22: Do you agree with the proposed circumstances under which the building safety regulator may decide to review the certificate? If not, what evidential threshold should trigger a review?

The scheme should allow for periodic reviews where this is considered necessary, and the JCA as the regulator should have the ability to direct a full review of the safety case at any point during the registration period.

Q. 4.1: Should the Government mandate Building Information Modelling (BIM) standards for any of the following types and stages of buildings in scope of the new system?

a. *New buildings in the design and construction stage, please support your view.*
b. *New buildings in the occupation stage, please support your view.*
c. *Existing buildings in the occupation stage, please support your view.*

The proposal to have a "Golden Thread" of information is welcomed. The government should mandate Business Information Modelling (BIM) standards for new buildings, from the design stage, through construction, to occupation, for the life of the building.

To mandate this for existing buildings may be too onerous and the information required should be determined by the JCA on a case-by-case basis using a risk based approach.

Q. 4.2: Are there any standards or protocols other than Building Information Modelling (BIM) that Government should consider for the golden thread? Please support your view

No response to this question

Q. 4.3: Are there other areas of information that should be included in the key dataset in order to ensure its purpose is met? Please support your view.

Providing only 'minimal information' on safety related features within the key dataset is not welcomed. Information on fire safety features should be comprehensive.

Q. 4.4: Do you agree that the key dataset for all buildings in scope should be made open and publicly available? If not, please support your view.

The principles of a key dataset are welcomed. However, not all of the information proposed should be publicly available as this will raise issues in relation to commercial confidentiality, privacy (particularly where the accountable person is a leasehold management company and / or a named individual is required) and security.

Q. 4.5: Do you agree with the proposals relating to the availability and accessibility of the golden thread? If not, please support your view

A new robust system to ensure that relevant building safety information remains easy to attain and understand for a building's whole life is welcomed.

To mandate this for existing buildings may be too onerous. The requirement for this information should be determined by the JCA on a risk basis.

Q. 4.6: Is there any additional information, besides that required at the gateway points, that should be included in the golden thread in the design and construction stage? If yes, please provide detail on the additional information you think should be included

No response to this question

Q. 4.7: Are there any specific aspects of handover of digital building information that are currently unclear and that could be facilitated by clearer guidance? If yes, please provide details on the additional information you think should be clearer.

No response to this question

Q. 4.8: Is there any additional information that should make up the golden thread in occupation? If yes, please provide detail on the additional information you think should be included

No response to this question

Q. 4.9: Do you agree that the Client, Principal Designer, Principal Contractor, and accountable person during occupation should have a responsibility to establish reporting systems and report occurrences to the building safety regulator? If not, please support your view.

Yes.

Mandatory occurrence reporting is welcomed. Non-reporting should be regarded as non-compliance and sanctions applied appropriately.

Q. 4.10: Do you think a 'just culture' is necessary for an effective system of mandatory occurrence reporting? If yes, what do you think (i) Industry (ii) Government can do to help cultivate a 'just culture'? Please support your view.

GMFRS has addressed this question in our submission.

The model used in the aviation industry should be considered.

Q. 4.11: *Do you agree that, where an occurrence has been identified, dutyholders must report this to the building safety regulator within 72 hours? If not, what should the timeframe for reporting to the building safety regulator be?*

GMFRS has addressed this question in the body of our submission.

The timeframe for mandatory reporting requires further detailed analysis once there is more information available as to how the regime may work.

Q. 4.12: Do you agree that the scope of mandatory occurrence reporting should cover fire and structural safety concerns? If not, are there any other concerns that should be included over the longer term?

GMFRS has addressed this question in the body of our submission.

The scope of mandatory occurrence reporting should cover any deviation or non-compliance with the Building Regulations where this would pose a risk and not be restricted to fire and structural issues. There is no justification for not introducing this in relation to other elements that relate to safety of the building and health of the potential occupiers.

Q. 4.13: Do you agree that mandatory occurrence reporting should be based on the categories of fire and structural safety concern reports identified in the prescriptive list in paragraph 222? Please support your view.

No response to this question

Q. 4.14: Do you have any suggestions for additional categories? Please list and support your view

No response to this question

Q. 4.15: Do you think the proposed system of mandatory occurrence reporting will work during the design stage of a building? If yes, please provide suggestions of occurrences that could be reported during the design stage of a building.

No response to this question

Q. 4.16: Do you agree that the building safety regulator should be made a prescribed person under Public Interest Disclosure Act 1998 (PIDA)? If not, please support your view.

Yes. GMFRS is supportive of the principle of introducing whistleblowing protection, and consider this should be a function of the national body who should then report concerns through the JCA to investigate.

Q. 4.17: Do you agree that the enhanced competence requirements for these key roles should be developed and maintained through a national framework, for example as a new British Standard or PAS? Please support your view.

Yes.

Q. 4.18: Should one of the building safety regulator's statutory objectives be framed to 'promote building safety and the safety of persons in and around the building'? Please support your view

Yes.

Q. 4.19: Should dutyholders throughout the building life cycle be under a general duty to promote building safety and the safety of persons in and around the building? Please support your view

No. This would be difficult to enforce. The requirements to ensure the safety of buildings must be a clear statutory requirement linked to regulations and guidance.

Q. 4.20: Should we apply dutyholder roles and the responsibility for compliance with building regulations to all building work or to some other subset of building work? Please support your view.

Yes.

The Building Control process is not fit for purpose and needs to be reformed as a whole, beyond the narrow scope of the proposed new regime.

Chapter 4: Residents at the heart of the new regulatory system

Q. 5.1: Do you agree that the list of information in paragraph 253 should be proactively provided to residents? If not, should different information be provided, or if you have a view on the best format, please provide examples

GMFRS has addressed this question in the body of our submission**.**

GMFRS supports proposals to ensure that information is available to and accessible by residents.

The provision of information to residents should be introduced through regulations made under the FSO and introduced at an early stage for all multi-occupied residential buildings.

Q. 5.2: Do you agree with the approach proposed for the culture of openness and exemptions to the openness of building information to residents? If not, do you think different information should be provided? Please provide examples.

GMFRS has addressed this question in the body of our submission**.**

Q. 5.3: Should a nominated person who is a non-resident be able to request information on behalf of a vulnerable person who lives there? If you answered Yes, who should that nominated person be?

- *Relative,*
- *Carer,*

- *Person with Lasting Power of Attorney,*
- *Court-appointed Deputy,*
- *Other (please specify).*

Yes.

GMFRS has addressed this question in the body of our submission**.**

A restrictive approach is not necessary.

Q. 5.4: Do you agree with the proposed set of requirements for the management summary? Please support your view.

Further information and analysis is required in this area.

Q. 5.5: Do you agree with the proposed set of requirements for the engagement plan? Please support your view.

The principle of a resident engagement strategy is sound but requires further consideration to ensure it as appropriate for all tenures, models of ownership and occupation of buildings.

Q. 5.6: Do you think there should be a new requirement on residents of buildings in scope to co-operate with the accountable person (and the building safety manager) to allow them to fulfil their duties in the new regime? Please support your view.

GMFRS supports the proposals for statutory requirements for residents and this should include a general obligation to co-operate and co-ordinate, and specific obligations not to interfere with fire safety features.

The requirements for resident engagement and responsibility should be enforced through the JCA and the FRA for buildings out of scope.

Q. 5.7: What specific requirements, if any, do you think would be appropriate? Please support your view

GMFRS has addressed this question in the body of our submission

Q. 5.8: If a new requirement for residents to co-operate with the accountable person and/or building safety manager was introduced, do you think safeguards would be needed to protect residents' rights? If yes, what do you think these safeguards could include?

GMFRS has addressed this question in the body of our submission

Q. 5.9: Do you agree with the proposed requirements for the accountable person's internal process for raising safety concerns? Please support your view.

GMFRS has addressed this question in the body of our submission

Q. 5.10: Do you agree to our proposal for an escalation route for fire and structural safety concerns that accountable persons have not resolved via their internal process? If not, how should unresolved concerns be escalated and actioned quickly and effectively?

GMFRS has addressed this question in the body of our submission

Q. 5.11: Do you agree that there should be a duty to cooperate as set out in paragraph 290 to support the system of escalation and redress? If yes, please provide your views on how it might work. If no, please let us know what steps would work to make sure that different parts of the system work well together.

GMFRS has addressed this question in the body of our submission

Chapter 5: A more effective regulatory and accountability framework for buildings

Q. 6.1: Should the periodic review of the regulatory system be carried out every five years/less frequently? If less frequently, please provide an alternative time-frame and support your view.

GMFRS has addressed this question in the body of our submission

Q. 6.2: Do you agree that regulatory and oversight functions at paragraph 315 are the right functions for a new building safety regulator to undertake to enable us to achieve our aim of ensuring buildings are safe? If not, please support your view on what changes should be made.

No.

A new national body that oversees the framework for improving building safety is welcomed. The scope of this new body's remit should go beyond high-rise residential buildings above 18m, and include all high-risk buildings.

This new national body should not be responsible for inspections and enforcement.

Inspection and enforcement should be the responsibility of newly created Joint Competent Authorities (JCAs), consisting of fire and rescue authorities (FRAs), local authority buildings standards, and the Health and Safety Executive. Where there are serious concerns about fire safety, the legislation

should also allow the JCA to classify a building as a 'high risk residential building' to bring it within scope of the regime.

The new national body should:

a. **Oversee and where necessary prescribe guidance, and ensure guidance is reviewed on a regular basis.**
b. **Oversee and regulate testing and certification regimes.**
c. **Oversee competency across industry and investigate competency-related complaints.**
d. **Operate a 'licensing' regime for Building Safety Managers.**
e. **Act as the relevant body for whistleblowing concerns.**
f. **Host and maintain a national digital platform for storage of safety case information and the golden thread (with local management).**
g. **Provide a dispute resolution mechanism aligned to a similar process contained within Article 36 of the FSO.**
h. **Monitor the effectiveness of the JCA**
i. **Have the authority to intervene in management and direct enforcement in the event of serious concerns.**
j. **Have oversight of the regulatory system and be required to carry out periodic reviews that are reported to Parliament.**
k. **Be required to keep regulations and guidance under regular review.**

Q. 6.3: Do you agree that some or all of the national building safety regulator functions should be delivered ahead of legislation, either by the Joint Regulators Group or by an existing national regulator? Please support your view.

Many of the principles within the proposals can be delivered at an early stage through effective partnership arrangements as a precursor to a JCA with guidance from the Joint Regulators Group.

Q. 7.1: Government agrees with the Competence Steering Group's recommendations for an overarching competence framework, formalised as part of a suite of national standards (e.g. British Standard or PAS). Do you agree with this proposal? Please support your view

Yes.

Q. 7.2: Government agrees with the Competence Steering Group's recommendations for establishing an industry-led committee to drive competence. Do you agree with this proposal? Please support your view.

No response to this question

Q. 7.3: Do you agree with the proposed functions of the committee that are set out in paragraph 331? Please support your view.

No response to this question

Q. 7.4: Do you agree that there should be an interim committee to take forward this work as described in paragraph 332? If so, who should establish the committee? Please support your view.

No response to this question

Q. 8.1: Do you agree with the approach of an 'inventory list' to identify relevant construction products to be captured by the proposed new regulatory regime? Please support your view.

No response to this question

Q. 8.2: Do you agree that an 'inventory list' should begin with including those constructions products with standards advised in Approved Documents? Please support your view.

No response to this question

Q. 8.3: Are there any other specific construction products that should be included in the 'inventory list'? Please list.

No response to this question

Q. 8.4: Do you agree with the proposed approach to requirements for construction products caught within the new regulatory regime? Please support your view.

No response to this question

Q. 8.5: Are there further requirements you think should be included? If yes, please provide examples

No response to this question

Q. 8.6: Do you agree with the proposed functions of a national regulator for construction products? Please support your view.

No response to this question

Q. 8.7: Do you agree construction product regulators have a role in ensuring modern methods of construction meet required standards? Please support your view

No response to this question

Q. 8.8: Do you agree that construction product regulators have a role in ensuring modern methods of construction are used safely? Please support your view.

No response to this question

Q. 8.9: Do you agree with the powers and duties set out in paragraph 350 to be taken forward by a national regulator for construction products? Please support your view.

No response to this question

Q. 8.10: Are there other requirements for the umbrella minimum standard that should be considered? If yes, please support your view.

No response to this question

Q. 8.11: Do you agree with the proposed requirements in paragraph 354 for the umbrella minimum standard? If not, what challenges are associated with them?

No response to this question

Q. 8.12: Do you agree with the proposal for the recognition of third-party certification schemes in building regulations? Please support your view.

No response to this question

Q. 8.13: Do you agree that third-party schemes should have minimum standards? Please support your view.

No response to this question

Q. 8.14: Are there any benefits to third-party schemes having minimum standards? Please support your view

No response to this question

Q. 8.15: Are there challenges to third-party schemes having minimum standards? Please support your view.

No response to this question

Chapter 6: Enforcement, compliance and sanctions

Q. 9.1: Do you agree with the principles set out in the three-step process above as an effective method for addressing non-compliance by dutyholders/accountable persons within the new system?

GMFRS has addressed this question in the body of our submission

Robust sanctions and enforcement options are necessary to drive compliance and act as a deterrent to non-compliance.

The appropriate enforcement action should be determined in relation to the gravity of the non-compliance

Q. 9.2: Do you agree we should introduce criminal offences for:

i. *an accountable person failing to register a building;*
ii. *an accountable person or building safety manager failing to comply with building safety conditions; and*
iii. *dutyholders carrying out work without the necessary gateway permission?*

Yes.

The proposed criminal offences are appropriate but consideration needs to be given to the potential sentences.

Q. 9.3: Do you agree that the sanctions regime under Constructions Products Regulations SI 2013 should be applied to a broader range of products? Please support your view.

No response to this question

Q. 9.4: Do you agree that an enhanced civil penalty regime should be available under the new building safety regulatory framework to address non-compliance with building safety requirements as a potential alternative to criminal prosecution? Please support your view.

Civil Penalties are appropriate for Dutyholders involved at the Design and Construction phase, as these are generally commercial and profitmaking.

Civil Penalties are unlikely to be appropriate at the occupation phase, as this would ultimately affect residents.

Q. 9.5: Do you agree that formal enforcement powers to correct non-compliant work should start from the time the serious defect was discovered? Please support your view.

Yes.

Any limitation period required for enforcement under the Building Act should run from discovery.

Q. 9.6: Do you agree that we should extend the limits in the Building Act 1984 for taking enforcement action (including prosecution)? If agree, should the limits be six or ten years?

Yes.

The limitation period for prosecutions under the Building Act should be removed entirely.