

**THE GRENFELL TOWER INQUIRY**

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**THE MINISTRY OF HOUSING, COMMUNITIES AND LOCAL GOVERNMENT'S  
POSITION STATEMENT**

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***General overview of the Department's responsibilities***

1. The Ministry of Housing, Communities and Local Government ("the Department") is responsible for Government policy relating to housing, planning and Building Regulations, local government, local growth, integration and community cohesion. The Department oversees delivery of the Government's commitments on housing and planning, working with local areas and our Arms Length Bodies ("ALBs") to ensure appropriate provision on new homes and making changes to improve the housing and planning system to enable delivery of key programmes. The Department is responsible for the oversight of the local government system, including local government finance and works with local authorities to help them operate effectively to deliver and improve the services that are valued by the public.
2. The Department's objectives for this Parliament are set out in its Single Departmental Plan<sup>1</sup>. They are to: fix the broken housing market; grow local economies; build integrated communities; support effective local government; ensure an effective response to the Grenfell Tower fire; and support local government, local economies and the housing sector to get ready for full EU Exit.
3. The Department is led by the Secretary of State for Housing, Communities and Local Government. He is supported by five other Ministers. The Ministerial team is advised by civil servants, the most senior of whom within the Department is the Permanent Secretary. She is the Principal Accounting Officer for the Department and is accountable to Parliament for the proper stewardship of the resources allocated to the Department.
4. The Department has published details of local accountability systems for a number of years, the most recent is the June 2017 Accounting Officer System Statement<sup>2</sup>. This provides Parliament with a single statement setting out all of the accountability relationships and processes within the Department and across the system for which it is responsible.

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<sup>1</sup> <https://www.gov.uk/government/publications/department-for-communities-and-local-government-single-departmental-plan/department-for-communities-and-local-government-single-departmental-plan>

<sup>2</sup> [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/624246/DCLG\\_Accounting\\_Officer\\_System\\_Statement.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/624246/DCLG_Accounting_Officer_System_Statement.pdf)

5. Senior Civil Servants in the Department oversee key areas of policy and delivery. Building Regulation Policy has been consistently led at Deputy Director Level (at Senior Civil Servants level) and currently sits within the Building Safety Group, established by the Department after the Grenfell Tower Fire. Between 2001 and 2015 Fire Policy was the responsibility of the Department; prior to that period and since January 2016 it was and is the responsibility of the Home Office.
6. As with all government policy, Government Departments are engaged regularly to ensure that links across Government are made. Key decisions are subject to collective agreement via the relevant Cabinet Committee. New policies and amendments to existing legislation and guidance are commonly subject to public consultation. Where a decision is taken to consult, the consultation process should adhere to the central guidance provided by the Cabinet Office<sup>3</sup>. Any consultation usually involves the publication of a consultation document setting out proposals and inviting views. Those with a particular interest in the subject of the consultation may also be invited to participate in working groups to discuss the details. Reports of responses to consultation are published. A summary of consultation responses is often included at the end of a government response to the consultation.
7. When the Government wishes to introduce new primary legislation, it will introduce a Bill before Parliament which must be approved by both Houses of Parliament and receive Royal Assent before becoming law.

### ***Departmental responsibility for fire safety in high rise buildings***

#### **Building regulations**

8. The Department is responsible for the legislation which sets requirements for building work and which sets the framework for the building control system, namely:
  - the Building Act 1984 (1984 c 55)<sup>4</sup>;
  - the Building Regulations 2010, as amended (SI 2010/2214)<sup>5</sup>;
  - the Building (Approved Inspectors etc.) Regulations 2010, as amended (SI 2010/2215)<sup>6</sup>; and
  - the Building (Local Authority Charges) Regulations 2010 (SI 2010/404)<sup>7</sup>.
9. The Building Act 1984 is the primary legislation, although some changes to Building Regulations have been made using powers in section 2(2) of the European Communities Act 1972<sup>8</sup> to implement EU obligations. The Building Act 1984 provides powers for the Secretary of State to make Building Regulations. The technical requirements in Schedule 1 of the Building Regulations are supported by statutory guidance, approved by the Secretary of State, called Approved Documents, which provide practical guidance on compliance.

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<sup>3</sup> <https://www.gov.uk/government/publications/consultation-principles-guidance>

<sup>4</sup> <http://www.legislation.gov.uk/ukpga/1984/55/contents>

<sup>5</sup> <http://www.legislation.gov.uk/uksi/2010/2214/contents/made>

<sup>6</sup> <http://www.legislation.gov.uk/uksi/2010/2215/contents/made>

<sup>7</sup> <http://www.legislation.gov.uk/uksi/2010/404/contents/made>

<sup>8</sup> <https://www.legislation.gov.uk/ukpga/1972/68/contents>

10. The Department keeps the Building Regulations and associated guidance under review and brings forward proposals for changes as necessary. It does this by considering technological and other developments, including undertaking research, and by seeking advice from key stakeholders and experts, including from the Building Regulations Advisory Committee, through formal consultation or through informal engagement.
11. Section 14 of the Building Act requires the Secretary of State to consult the Building Regulations Advisory Committee for England ("BRAC") and other representative persons he thinks appropriate on proposals for substantive changes to the Building Regulations. BRAC can also offer advice to the Secretary of State on any building regulations matters. As well as the main committee, BRAC will often set up topic working groups to work on specific issues.
12. It is the responsibility of the person undertaking the building work to ensure that the requirements of the Building Regulations are met when buildings are constructed or refurbished or when building work (as defined) is undertaken. Compliance is checked by a Building Control Body, either Local Authority Building Control or an Approved Inspector. Local authorities have enforcement powers under the Building Act. S 35 and 36 of the Act sets out the sanctions which are available in cases of failure to comply with Building Regulations' requirements. The relevant Fire and Rescue Authority is also consulted during this process for building work in relation to buildings which are subject to the Regulatory Reform (Fire Safety) Order 2005<sup>9</sup>.
13. More detail on the regulatory framework in respect of the Building Regulations is provided at **Annex A**.

#### Housing Health and Safety Rating System

14. The Department also has responsibility for the legislative framework for assessing the risk of a hazard in residential housing. This is known as the Housing Health and Safety Rating System ("HHSRS") which was introduced through Part 1 of the Housing Act 2004<sup>10</sup>. The Housing Health and Safety Rating System (England) Regulations 2005<sup>11</sup> also came into force in April 2006.
15. The HHSRS is a risk-based evaluation tool to help local authorities identify and protect against potential risks and hazards to health and safety from any deficiencies identified in dwellings. It is normally triggered by a complaint from a tenant about the condition of the property. An inspection can also be requested by the landlord, or may take place because the local authority has become aware of relevant issues which suggest that a property needs to be inspected. If necessary, local authorities have powers of entry, which permit them to enter a property without the landlord's permission.
16. Although local authorities cannot take statutory enforcement action against themselves in respect of their own stock they are expected to use the HHSRS to

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<sup>9</sup> <http://www.legislation.gov.uk/ukxi/2005/1541/contents/made>

<sup>10</sup> <https://www.legislation.gov.uk/ukpga/2004/34/contents>

<sup>11</sup> <http://www.legislation.gov.uk/ukxi/2005/3208/contents/made>

assess the condition of their stock and to ensure their housing meets the Decent Home Standard<sup>12</sup>.

17. More detail on the regulatory framework for the assessment of hazards in homes is set out at **Annex B**.

### Fire Safety

18. From 2001 to 2016 the Department also had responsibility for fire and rescue services. Prior to this date responsibility lay with the Home Office. In January 2016 responsibility for fire and rescue services was transferred back to the Home Office<sup>13</sup>. This was to support a 2015 Conservative Party manifesto commitment to 'enable police and fire to work more effectively together'<sup>14</sup>.
19. Following the transfer of responsibility to the Home Office in January 2016, the teams responsible for fire safety and the Building Regulations continued to work closely together.
20. Given this shared policy history and close working, the two departments have sighted one another on draft Position Statements. The articulation of responsibilities for fire prevention and protection policy is set out in the Home Office's Position Statement as that department now has responsibility and holds the relevant files.

### ***Responsibility for devising, organising and implementing emergency relief measures***

21. The Civil Contingencies Act 2004 ("CCA")<sup>15</sup>, and Civil Contingencies Act 2004 (Contingency Planning) Regulations 2005<sup>16</sup> set out a framework for civil protection in the UK.
22. Alongside the CCA and accompanying regulations, the guidance 'Emergency Preparedness'<sup>17</sup> and 'Emergency Response and Recovery'<sup>18</sup> establish a clear set of roles and responsibilities for those involved in emergency preparation, response and recovery at the local level. Oversight for civil contingencies rests with the Cabinet Office, which provides coordination across government.
23. The Government's Arrangements for Responding to an Emergency: Concept of Operations ("CONOPs")<sup>19</sup> sets out the UK arrangements for responding to and recovering from emergencies, irrespective of cause or location and requiring coordinated central government action. The Department provides the link between

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<sup>12</sup> <https://www.gov.uk/government/publications/a-decent-home-definition-and-guidance>

<sup>13</sup> [https://www.legislation.gov.uk/uksi/2016/162/pdfs/ukxiem\\_20160162\\_en.pdf](https://www.legislation.gov.uk/uksi/2016/162/pdfs/ukxiem_20160162_en.pdf)

<sup>14</sup> <https://www.conservatives.com/manifesto2015>

<sup>15</sup> <http://www.legislation.gov.uk/ukpga/2004/36/data.pdf>

<sup>16</sup> <http://www.legislation.gov.uk/uksi/2005/2042/contents/made>

<sup>17</sup> <https://www.gov.uk/government/publications/emergency-preparedness>

<sup>18</sup> <https://www.gov.uk/government/publications/emergency-response-and-recovery>

<sup>19</sup> <https://www.gov.uk/government/publications/the-central-government-s-concept-of-operations>

clearly defined central and local resilience functions with regard to planning for and responding to emergencies.

24. The Department also administers the Bellwin scheme for emergency financial assistance. It is designed to help local authorities meet uninsurable costs that they incur when dealing with the response to an emergency in their area. It is limited by statute (section 155 of the Local Government and Housing Act 1989) to “costs of immediate action to safeguard life or property or prevent suffering or severe inconvenience to inhabitants”.

25. More detail on the Department’s responsibility for emergency relief measures is at **Annex C**.

## Annex A: Building Regulations

1. This annex describes the Building Act 1984 and secondary legislation made under the Act; and legislation implementing relevant EU requirements made under Section 2(2) of the European Communities Act, most particularly the Energy Performance of Buildings Directive<sup>20</sup> and the Construction Products Regulation<sup>21</sup>.

### Building Act 1984

2. The Building Act 1984<sup>22</sup> was a combination of new requirements and the consolidation of provisions in earlier legislation (which the Act repealed). The most notable new provisions were powers to introduce alternatives to local authority building control in the form of approved private sector inspectors.
3. The Building Act has four parts:
  - Part 1 – which makes provision for Building Regulations (augmented in Schedule 1) and establishment of a statutory Building Regulations Advisory Committee;
  - Part 2 – which makes provision for supervision of building work otherwise than by local authorities;
  - Part 3 – which makes other provision for existing buildings; and
  - Part 4 – which makes general provision for procedures and definitions
4. The Building Act as passed applied to England and Wales and until 2011 Building Regulations also applied both to England and Wales. Responsibility for making Building Regulations in Wales passed to the Welsh Assembly Government in 2011.
5. The Building Act has been amended subsequently. The most significant changes were made by the Sustainable and Secure Buildings Act 2004<sup>23</sup>, which extended the scope of Building Regulations to include matters relating to the security and sustainability of buildings; the Infrastructure Act 2015<sup>24</sup>, which extended the scope of the Building Regulations to set requirements for off site carbon reduction measures; and the Deregulation Act 2015<sup>25</sup> which enabled Building Regulations to set Optional Requirements. These are requirements which a local authority can apply as a condition of planning consent.

### Building Regulations

6. The first set of Building Regulations made under the Act was made in 1985. Subsequent substantive revisions were made in 1991, 2000, 2001, 2002, 2006, 2010, 2012, 2013 and 2015. The current iteration is the Building Regulations 2010<sup>26</sup>, as amended.

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<sup>20</sup> <http://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:32010L0031>

<sup>21</sup> <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32011R0305>

<sup>22</sup> <http://www.legislation.gov.uk/ukpga/1984/55/contents>

<sup>23</sup> <http://www.legislation.gov.uk/ukpga/2004/22/contents>

<sup>24</sup> <http://www.legislation.gov.uk/ukpga/2015/7/contents>

<sup>25</sup> <http://www.legislation.gov.uk/ukpga/2015/20/contents>

<sup>26</sup> <http://www.legislation.gov.uk/uksi/2010/2214/contents/made>

7. The Building Regulations 2010 (as amended) make provision for:
- Control of building work (Part Two); regulation 3 defines the types of work within scope of the Regulations and regulation 4 sets out the tests of compliance for building work undertaken;
  - Notices, plans and certificates (Part Three). Regulation 12 (3) requires that where a building is covered by the Regulatory Reform (Fire Safety) Order 2005<sup>27</sup> (the “Fire Safety Order”), the person carrying out the work must deposit full plans. Regulation 14 (4) requires that full plans shall be accompanied by a statement as to whether the building is covered by the Fire Safety Order. Regulation 17 enables a local authority to issue a completion certificate where it is satisfied that the relevant requirements have been met;
  - Supervision of building work otherwise than by local authorities (Part Four);
  - Self-certification and third party certification schemes (Part Five);
  - Energy efficiency requirements (Part Six);
  - Water efficiency (Part Seven);
  - Information to be provided by the person carrying out work (Part Eight). Regulation 38 sets out requirements for fire safety information to be provided to the responsible person under the Fire Safety Order on completion of the building work;
  - Testing and commissioning (Part Nine); and
  - Miscellaneous provision (Part Ten).
8. Technical requirements are set out in Schedule 1 to the Building Regulations, Parts A – R. Fire safety technical requirements are set out in Part B of Schedule 1, which was significantly amended by the Building (Amendment) (No.2) Regulations 2002 (S.I. 2002/2871). There are five specific requirements:
- Paragraph B1: Means of warning and escape;
  - Paragraph B2: Internal fire spread (linings);
  - Paragraph B3: Internal fire spread (structure);
  - Paragraph B4: External fire spread; and
  - Paragraph B5: Access and facilities for the fire service.
9. Section 4 of the Building Act and Schedule 2 of the Building Regulations list buildings and work exempt from the Building Regulations. Crown buildings have immunity from compliance with the Building Regulations except as set out in regulations 34 and 44A of those Regulations.
10. Schedules 3 and 3A list self-certification schemes and third party certification schemes enabled under paragraph 4A of Schedule 1 to the Building Act and regulation 12 of the Building Regulations 2010.
11. Schedule 4 describes building work where no building notice of deposit of full plans is required.
12. There have also been minor and technical changes to the Regulations e.g. to correct errors or amend the list of self-certification schemes, but these have not been included.

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<sup>27</sup> <http://www.legislation.gov.uk/ukSI/2005/1541/contents/made>



## Scope of Building Regulations

13. The Building Regulations apply to building work as defined in Regulation 3. The main categories are: erection or extension of a building; provision or extension of a controlled service or fitting (which includes installation of controlled services as part of refurbishment work on an existing building); work required on a material change of use of an existing building (for example from an office to dwellings); work required on the addition or replacement of a layer to a thermal element of an existing building (walls, roof, ground floor); insertion of cavity wall insulation in an existing building; underpinning an existing building; work that is a material alteration of a building, or a controlled service or fitting.
14. An alteration is material if the work would result in a building or controlled service or fitting not complying with a relevant requirement where it previously did or, where it did not comply with a relevant requirement before the work, being more unsatisfactory in relation to such a requirement. Paragraphs B1, B3, B4 and B5 are relevant requirements.
15. All the categories except the erection or extension of a building would include refurbishment work. Repair and maintenance work of what is already in or on a building is not generally considered to be building work.

## Tests of compliance

16. Regulation 4 of the Building Regulations sets out two compliance tests: the building work (physically) undertaken must comply with all relevant requirements in the Building Regulations; and the building itself must comply with all relevant requirements or, where it did not previously comply, must be no less compliant than it was before the building work was carried out.
17. In general, there is no requirement to upgrade parts of a building where no building work was being carried out unless the building as a whole would be less compliant.

## Building (Approved Inspectors etc.) Regulations 2010 (as amended)<sup>28</sup>

18. Part 2 of the Building Act and these Regulations set out the framework under which Approved Inspectors operate, as enabled by section 49 of the Building Act. They make provision for:
- The grant and withdrawal of approval of Approved Inspectors (Part Two);
  - Supervision of work by Approved Inspectors (Part Three). Regulation 12 sets out requirements for Approved inspectors to consult the fire and rescue authority;
  - Application of provisions of the principal regulations (the Building Regulations 2010, as amended) (Part Four);
  - Public bodies (Part Five). Regulation 23 sets out requirements for public bodies to consult with the fire and rescue authority;

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<sup>28</sup> <http://www.legislation.gov.uk/ukSI/2010/2215/contents/made>



- Certificates relating to deposited plans (Part Six); and
- Miscellaneous provisions (Part Seven).

19. The Schedules to the Regulations sets out forms to be completed by Approved Inspectors and grounds for rejecting notices provided by Approved Inspectors. They were preceded by the Building (Approved Inspectors etc.) Regulations 2000<sup>29</sup> (S.1.2000/2532) and Building (Approved Inspectors etc.) Regulations 1985<sup>30</sup>.

#### Building (Local Authority Charges) Regulations 2010<sup>31</sup>

20. These Regulations provide powers for local authorities to establish schemes to set charges for work they undertake in relation to prescribed functions under the Building Act and the Building Regulations. In general charges are calculated using a local building control officer's hourly rate (which varies from local authority to local authority) and an estimate of the time a building control job would take. Local authorities cannot charge for carrying out their formal enforcement functions under sections 35 and 36 of the Building Act. These regulations were preceded by the Building (Local Authority Charges) Regulations 1998<sup>32</sup> and Building (Prescribed Fees) Regulations 1994<sup>33</sup> and Building (Prescribed Fees etc.) Regulations 1985/1576<sup>34</sup>.

#### Guidance/Approved Documents

21. Section 6 of the Building Act enables the Secretary of State to approve documents for the purpose of providing practical guidance on the requirements of Building Regulations. Approved Documents have particular status in law. Section 7 of the Building Act provides that failure to comply with an approved document at the relevant time may be relied upon as establishing criminal or civil liability, whereas proof of compliance with these documents will tend to negative liability in any such proceedings relating to an alleged breach of the Building Regulations.

22. New versions of the relevant Approved Documents are issued if the requirements of the Building Regulations are changed. Revisions are not dependent on changes to the Regulations, however, and may be issued at any time if the Department considers this is necessary because of new technical developments; to address new issues which may have arisen and bear on compliance with the relevant technical requirements in Schedule 1; or to clarify the guidance.

#### Approved Document B (Fire Safety)<sup>35</sup>

23. There are two volumes to Approved Document B: Volume 1 – Dwelling houses; and Volume 2 – Buildings other than dwelling houses. Guidance in respect of high rise flats is provided in Volume 2. Paragraph 12 of Volume 2 provides guidance on meeting the

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<sup>29</sup> <https://www.legislation.gov.uk/uksi/2000/2532/contents/made>

<sup>30</sup> <https://www.legislation.gov.uk/uksi/1985/1066/made>

<sup>31</sup> <http://www.legislation.gov.uk/uksi/2010/404/contents/made>

<sup>32</sup> <http://www.legislation.gov.uk/uksi/1998/3129/contents/made>

<sup>33</sup> <http://www.legislation.gov.uk/uksi/1994/2020/made>

<sup>34</sup> <http://www.legislation.gov.uk/uksi/1985/1576/contents/made>

<sup>35</sup> <https://www.gov.uk/government/publications/fire-safety-approved-document-b>

requirement of paragraph B4 of Schedule 1 (external fire spread) in relation to buildings other than dwelling house (so including high rise flats).

24. The first version of Approved Document B (“ADB”) was published as a single volume in 1985. The significant changes to ADB since 1985 were made as follows:

- **1992** – Guidance in relation to B1 (Means of warning and escape) was added to ADB and the ‘mandatory rules for means of escape’ document was withdrawn. This included, for the first time, provisions for smoke alarms in dwellings. A new requirement, B5 (Access and facilities for the fire service) was introduced. Combustibility of materials in external walls was restricted at 20m above ground level. Sprinklers were recommended for office, commercial, assembly/recreation, industry and storage buildings higher than 30m.
- **2000** – Requirement B1 was expanded to include fire detection and alarm systems. Sprinklers were recommended for large single storey shops. Combustibility of materials in external walls was restricted at 18m above ground level.
- **2002** – Amendments were made in recognition of the European system of classification for the fire performance of construction products in support of the Construction Products Directive (89/106/EEC).
- **2006** – ADB was split into two volumes (dwelling houses and buildings other than dwelling houses). . Guidance in Volume 2 (buildings other than dwelling houses) states that sprinklers should be provided for flats in buildings with a floor more than 30m above ground level (section 8.14), large single storey shops and in warehouse buildings over 20,000m<sup>2</sup>. A new requirement to provide fire safety information to the responsible person was introduced (Regulation 16B of the Building Regulations 2000 (as amended), now Regulation 38 of the Building Regulations 2010)  
Paragraph 12.7 in ADB volume 2 was amended to include reference to fillers as part of the insulation products and materials which should be non-combustible in buildings over 18m. The option to use the BS 8414 test was introduced (Paragraph 12.5).
- **2010** – Updates to European standards referenced.
- **2012/13** – More flexible guidance on thermoplastic lighting diffusers was introduced. Changes were made to address unintended consequences arising from EU requirements for internal wall coverings and updates to European standards were referenced.

### Local Acts

25. As well as the Building Act and the Building Regulations, a number of Local Acts included requirements relating to fire protection the majority of which were repealed in 2012<sup>36</sup>.

26. These Local Acts provided a discretionary power for local authorities to require additional measures in certain types of building (such as warehouses, tall buildings and car parks). Those provisions that were repealed were not considered to be necessary to ensure life safety supported by research undertaken by Building Research

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<sup>36</sup> <http://www.legislation.gov.uk/uksi/2012/3124/contents/made>

Establishment. The remaining provisions mainly concern access for fire and rescue authorities.

## EU Legislation

27. Two pieces of European legislation, which are the responsibility of the Department, bear particularly upon buildings: the Energy Performance of Buildings Directive (the EPBD (2010/31/EU)<sup>37</sup> and the Construction Products Regulation (305/2011/EU)<sup>38</sup>.

### Energy Performance of Buildings Directive

28. The EPBD sets requirements relating to energy performance standards for new builds and buildings undergoing major renovations and for energy performance certificates. The EPBD was first introduced in 2002 (2002/91/EC) with a subsequent recast in 2010 (2010/31/EU). Further changes to the EPBD are currently before the European Council.

29. EPBD requirements have been implemented through regulations made using section 2(2) European Communities Act (ECA) powers or through changes to the Building Regulations, using Building Act powers.

### Construction Products Regulation (CPR)

30. The CPR as an EU regulation has direct effect under the terms of the ECA. It seeks to remove technical barriers to the trade of construction products in the European single market, by laying down harmonised rules for their marketing. The CPR regime is mandatory for construction products covered by harmonised European standards, resulting in a CE marking and a published Declaration of Performance. The CPR requires manufacturers of such products to arrange standard performance tests and publish the results in a consistent way, and enables the free movement of such products within the EU.

31. Article 3 of the CPR states that the “basic requirements for construction works” shall form the basis for harmonised standards. The basic requirements, set out in Annex 1 of the Regulation, include safety in the case of fire and specifically that in the event of an outbreak of fire the generation and spread of fire within the construction works are limited.

32. Member States are required to put in place arrangements for market surveillance under the terms of the CPR. This was done through the Construction Products Regulations 2013 (SI 2013/1387).<sup>39</sup>

33. The CPR replaced the Construction Products Directive (89/106/EEC).

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<sup>37</sup> <http://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:32010L0031>

<sup>38</sup> <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32011R0305>

<sup>39</sup> <http://www.legislation.gov.uk/ukSI/2013/1387/contents/made>

## Engagement with other government departments in relation to building regulations

34. As with any Government policy, relevant Government Departments are consulted through the standard processes for securing collective agreement to policy via the relevant Cabinet Committee, supervised by the Cabinet Office. The interests of other Departments will have varied depending on the specific policy proposal but those with significant interest are:

- Home Office, because of its responsibility for fire prevention and protection policy and wider matters, including the Regulatory Reform (Fire Safety) Order 2005.
- The Department for Business, Energy and Industrial Strategy and its predecessors, as the Department responsible for the construction industry, for energy policy (from Summer 2016), for the standardization and accreditation system and for better regulation.
- From 2009 - 2016, the Department for Energy and Climate Change, responsible for energy policy. Prior to 2009 responsibility for energy policy was vested in the Department for Business, Enterprise and Regulatory Reform, with the Department for Environment Food and Rural Affairs also having an interest from the carbon reduction perspective.
- Department for the Environment, Food and Rural Affairs, as the Department responsible for water and environmental protection policy.
- Health and Safety Executive which has responsibility for health and safety in workplaces.
- Welsh Ministers, which have responsibility for the Building Act and Building Regulations matters in Wales. Although the Building Act and the Building Regulations do not apply in Scotland and Northern Ireland, the Department liaises with those administrations on proposals as they are developed.
- HM Treasury, from a broader economic perspective.

## Annex B: Housing Health and Safety Rating System

1. The Housing Health and Safety Rating System (“HHSRS”) was introduced through Part 1 of the Housing Act 2004. The Housing Health and Safety Rating System (England) Regulations 2005<sup>40</sup> were brought into force in April 2006. Guidance was published in 2006 on inspections and hazards, which is still the relevant guidance today. Local authorities must have regard to this guidance under section 9(2) of the Housing Act 2004: Enforcement guidance<sup>41</sup> and Operational guidance<sup>42</sup>. Guidance has also been published for landlords<sup>43</sup>.
2. The HHSRS replaced the Housing Fitness Standard which had been introduced in 1990 and was a set of basic requirements that homes had to meet to be considered as ‘fit’ for occupation. This was a pass or fail test used by local authorities as the basis for taking legal action against unfit homes. The Housing Fitness Standard was replaced as it did not cover some of the most serious health and safety standards (e.g. fire risk and hazards associated with trips and falls) and because, as it could only pass or fail a property, it did not always distinguish between relatively minor defects and genuine health and safety hazards.
3. The HHSRS, which was subsequently introduced and is the current system in operation, is a risk based assessment tool which is used by local authority environmental health officers to assess the risk of a hazard in residential housing to the health and safety of occupants or visitors. It is tenure neutral so can be used to assess hazards in private and social rented housing and also in owner occupied housing. The vast majority of Housing Health and Safety Rating System work is carried out in relation to private rented housing.
4. An HHSRS inspection involves checking whether a property contains one or more of twenty-nine potential hazards and assessing the likelihood of harm occurring to the occupier as a result. One of the potential hazards that an inspection will consider is the risk of ‘fire: exposure to uncontrolled fire and associated smoke’ (see regulation 3(1) and paragraph 24 of Schedule 1 to the Housing Health and Safety Rating System (England) Regulations 2005). Section 10 of the Housing Act also requires that the local housing authority consults the fire and rescue authority before taking enforcement action in relation to a prescribed fire hazard in a house in multiple occupation or in the common parts of a building containing flats.
5. Where a property contains potentially serious risks to the health and safety of the occupants – known as Category 1 hazards - the local authority must take appropriate action requiring the landlord to reduce or remove the risk. Where there are less serious risks – Category 2 hazards – local authorities may take action but are not obliged to do so by law.

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<sup>40</sup> <http://www.legislation.gov.uk/ukxi/2005/3208/contents/made>

<sup>41</sup> <https://www.gov.uk/government/publications/housing-health-and-safety-rating-system-enforcement-guidance-housing-conditions>

<sup>42</sup> <https://www.gov.uk/government/publications/hhsrs-operating-guidance-housing-act-2004-guidance-about-inspections-and-assessment-of-hazards-given-under-section-9>

<sup>43</sup> <https://www.gov.uk/government/publications/housing-health-and-safety-rating-system-guidance-for-landlords-and-property-related-professionals>



6. The Housing Health and Safety Rating System (England) Regulations 2005 prescribe descriptions of hazards for the purposes of the Act, the method for assessing the seriousness of hazards and the manner and extent of inspections of residential premises to see whether category 1 or 2 hazards exist. There are separate regulations for Wales, made by the National Assembly for Wales – the Housing Health and Safety Rating System (Wales) Regulations 2006.
7. Section 5(2) of the Housing Act 2004 sets out the options available to a local authority where it identifies a category 1 hazard in a building. These include:
  - serve an Improvement Notice requiring specified repairs to be completed by a set deadline;
  - make a Prohibition Order, preventing the property from being rented out;
  - take Emergency Remedial Action to address the problem; or
  - serve a Hazard Awareness Notice drawing attention to the problem.
8. The HHSRS does not set minimum standards. It is normally triggered by a complaint from a tenant about the condition of the property. An inspection can also be requested by the landlord, or may take place because the local authority has become aware of relevant issues which suggest that a property needs to be inspected. If necessary, local authorities have powers of entry, which permit them to enter a property without the landlord's permission.
9. Failure to comply with an Improvement Notice or a prohibition order is a criminal offence and the courts have the power to impose an unlimited fine. As an alternative to prosecution for the offence of failing to comply with an improvement notice, local authorities can now impose a financial penalty of up to £30,000 (see section 249A of the Housing Act 2004 which was introduced by the Housing and Planning Act 2016 and came into force on 6 April 2017). The Housing and Planning Act 2016 also brought in changes enabling local authorities to seek a Rent Repayment Order covering up to 12 months rent where a landlord has committed the offence of failing to comply with an improvement notice or a prohibition order. Where a local authority undertakes Emergency Remedial Action, they can reclaim the full cost of the work from the building owner. There are no sanctions attached to Hazard Awareness Notices as they do not require action to be taken (and are very rarely used for Category 1 hazards).
10. Although local authorities cannot take statutory enforcement action against themselves in respect of their own stock they are expected to use the Housing Health and Safety Rating System to assess the condition of their stock and to ensure their housing meets the Decent Home Standard.

## Annex C Emergency Relief Measures

1. The Cabinet Office's Position Statement explains the responsibility for emergency relief measures and explains the formulation of the policy framework within which multi-agency emergency response arrangements in England and Wales are delivered. This framework includes, in particular, the Civil Contingencies Act 2004, the Civil Contingencies Act 2004 (Contingency Planning) Regulations 2005<sup>44</sup> and the guidance 'Emergency Preparedness'<sup>45</sup> and Emergency Response and Recovery<sup>46</sup>.
2. These establish a clear set of roles and responsibilities for those involved in emergency preparation and response at the local level. The Act divides local responders into two categories, imposing a different set of duties on each.
3. Those in Category 1 are organisations at the core of the response to most emergencies (the emergency services, local authorities, NHS bodies). Category 1 responders are subject to the full set of civil protection duties.
4. Category 2 organisations (the Health and Safety Executive, transport and utility companies) are 'co-operating bodies'. They are less likely to be involved in the heart of planning work, but will be heavily involved in incidents that affect their own sector. Category 2 responders have a lesser set of duties – co-operating and sharing relevant information with other Category 1 and 2 responders.
5. The UK arrangements for responding to and recovering from emergencies are set out in central government's Concept of Operations document<sup>47</sup>. This sets out that the Department is responsible for providing the link between clearly defined central and local resilience functions with regard to planning for and responding to emergencies.
6. The Resilience and Emergencies Division in MHCLG works with local organisations to build resilience, to support Local Resilience Forums working together. It also supports the response to any emergency. This includes assisting the exchange of information between responders in affected Strategic Co-ordinating Groups ("SCGs") and with UK central government.
7. In the event of an emergency, the Department's Resilience and Emergency Division ("RED") will immediately take steps to ensure that they can provide support to the local emergency response, where necessary and as appropriate. Using RED as the main point of contact reduces the risk of duplicated requests from different central government departments, thereby minimising the burden on local responders.
8. The Department also administers the Bellwin scheme for emergency financial assistance. It is designed to help local authorities meet uninsurable costs that they incur when dealing with the response to an emergency in their area. It is limited by

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<sup>44</sup> <http://www.legislation.gov.uk/ukxi/2005/2042/contents/made>

<sup>45</sup> <https://www.gov.uk/government/publications/emergency-preparedness>

<sup>46</sup> <https://www.gov.uk/government/publications/emergency-response-and-recovery>

<sup>47</sup> [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/192425/CONOPs\\_incl\\_revised\\_chapter\\_24\\_Apr-13.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/192425/CONOPs_incl_revised_chapter_24_Apr-13.pdf)



statute (section 155 of the Local Government and Housing Act 1989<sup>48</sup>) to “costs of immediate action to safeguard life or property or prevent suffering or severe inconvenience to inhabitants”. A local authority – as defined by statute – includes: counties, districts, unitary authorities, London boroughs, the Common Council of the City of London, the GLA, the Isles of Scilly, Police Authorities (and Police and Crime Commissioners) Fire Authorities (including Combined Fire Authorities) and National Park Authorities. All these are eligible to claim for Bellwin emergency financial assistance.

9. Under the rules of the scheme (set out in published Government guidance), each local authority for whom a scheme is activated can claim for eligible costs above a threshold (set at 0.2% of its calculated annual revenue budget). Grant is then paid at 100% of remaining eligible expenditure.

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<sup>48</sup> <https://www.legislation.gov.uk/ukpga/1989/42/contents>