

Real Estate:UK response to MHCLG's consultation on Improving proportionality and building safety outcomes in building control: categorisation of higher-risk building work

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Real Estate:UK

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Real Estate:UK welcomes the Government's efforts to introduce greater proportionality into the higher-risk building regime and recognises the importance of ensuring that regulatory requirements are appropriately aligned to the level of fire and structural safety risk presented by different types of work.

Our members broadly support reforms intended to avoid a purely binary approach to gateway requirements, particularly where relatively minor or routine works can currently trigger extensive regulatory processes despite presenting limited wider safety impacts. At the same time, members emphasised that any move towards greater proportionality must continue to maintain appropriate safeguards for works that could affect active fire safety systems, structural integrity or the wider fire strategy of a building.

Members also highlighted the need for clearer guidance and greater recognition of the operational realities of mixed-use higher-risk buildings, including the treatment of routine works within commercial areas.

Question 1: To what extent do you agree or disagree that building work within a flat (residential unit) should be excluded from Category A (and classed as Category B work)?

Agree

Question 1(a) (Optional) Please explain your answer.

We support the introduction of greater proportionality into the higher-risk building regime and agree that certain lower-risk works within individual flats should be excluded from Category A and treated as Category B work.

The current system can operate on an overly binary basis, with relatively minor works triggering extensive gateway requirements despite presenting limited fire or structural safety risk. Members highlighted examples such as drainage works, kitchen refurbishments and similar routine maintenance activities where the current process can be disproportionate and resource intensive.

However, this should not amount to a blanket exclusion of all works within flats. Works within demised areas can still affect active fire safety systems and the wider fire strategy of the building. Any reforms should therefore retain safeguards where works may materially impact fire or structural safety.

Clearer guidance will also be essential to support consistent decision making, particularly around what constitutes an impact on fire safety or structural safety.

Question 2: To what extent do you agree or disagree that the following work within a flat should remain in Category A:

- work that affects active fire safety measures such as fire alarms or sprinkler systems
- load bearing walls within the flat
- work to fire doors connecting the flat to communal areas
- work to external walls of the flat, excluding windows

Question 2(a) (Optional) Please explain your answer.

We agree that these categories of work should remain within Category A due to their potential impact on wider building safety systems and the overall fire and structural integrity of the building.

Members emphasised that many fires originate within flats and that works undertaken within demised areas can still have consequences beyond the individual unit. Alterations to active fire safety measures, structural elements, flat entrance doors and external walls all have the potential to affect compartmentation, evacuation strategies and overall building performance, even where works may initially appear limited in scope.

Maintaining appropriate safeguards for these higher-risk categories of work is therefore important alongside wider efforts to improve proportionality in the regime.

Question 4: Do you have any additional comments on Option 1 as proposed (including any potential unintended consequences of this Option?)

We support the Government's objective of introducing greater proportionality into the higher-risk building regime and avoiding a purely binary regulatory approach.

In practice, relatively minor works can currently trigger extensive gateway requirements despite posing limited fire or structural safety risk. Members cited examples including balcony decking replacement, kitchen refurbishments and small-scale fit outs in commercial units. Greater proportionality would help ensure regulatory resources are focused on genuinely higher-risk works.

However, the consultation appears heavily focused on residential buildings and does not sufficiently reflect the realities of mixed-use higher-risk buildings. Proportionality should apply equally to commercial areas within mixed-use buildings, and routine fit out or maintenance works in commercial units should not automatically trigger extensive gateway requirements where there is no material impact on fire or structural safety.

A recurring issue raised by members was the lack of clarity around:

- what constitutes an impact on fire safety
- what constitutes an impact on structural safety
- which works genuinely warrant regulatory escalation

Additional guidance will therefore be critical to support consistent interpretation and implementation of any revised approach.

Question 8: Do you have any additional comments on Option 2 as proposed (including any potential unintended consequences of this Option?)

We support the principle of excluding genuinely small-scale, low-risk works in communal areas from Category A requirements where there is no material impact on fire or structural safety. This would help introduce greater proportionality into the regime and avoid unnecessary gateway processes for routine works.

However, careful consideration will be needed around how “small-scale” work is defined in practice. The criteria should be sufficiently clear and workable to avoid inconsistent interpretation or uncertainty across the sector.

Members also noted that some works which may initially appear minor can still affect wider building safety systems. Appropriate safeguards should therefore remain in place where works have the potential to impact active fire safety systems, structural integrity or the wider fire strategy of the building.

Question 9

Question 9(a) If so, please provide details below.

Additional guidance would be helpful in clarifying:

- what constitutes an impact on fire safety
- what constitutes an impact on structural safety
- which works should trigger escalation into Category A

Members highlighted that greater clarity in these areas would help support more consistent decision making and improve confidence in the operation of a more proportionate regime.

Guidance should also better reflect the realities of mixed-use higher-risk buildings, including how proportionality should apply to routine fit out and maintenance works within commercial units.

Question 10: Are there particular stakeholders that should be engaged in developing further guidance?

Yes

Question 10(a) If so, please provide details below.

Further guidance should be developed in consultation with a broad range of stakeholders, including:

- building owners and operators
- developers
- managing agents
- commercial occupiers in mixed-use buildings
- fire engineers
- structural engineers
- contractors and fit out specialists
- building control professionals

It will be particularly important to engage stakeholders with experience of operating and managing mixed-use higher-risk buildings, given concerns that the current proposals are primarily framed around residential use.

Question 12: Do you believe there are any types of building work that should be considered for a CPS scheme in the future?

Yes

Question 12(a) If so, please provide details below.

There may be merit in exploring whether suitably accredited competent persons schemes could apply to certain lower-risk works that do not materially affect fire or structural safety.

Members noted that the current regime can require extensive gateway processes for relatively routine works, and competent person schemes may offer a more proportionate route for appropriately defined categories of lower-risk activity.

Any future expansion of competent person schemes should be accompanied by clear competency standards, robust oversight and clear guidance on the types of work that remain within the full higher-risk building regime.

Question 13: What would be the benefits of moving work internal to flats and small-scale work from the BSR's oversight in the higher risk regime to other building control bodies?

Potential benefits could include:

- introducing greater proportionality into the regime
- reducing unnecessary gateway applications for genuinely low-risk works
- allowing the Building Safety Regulator to focus resources on higher-risk activities
- reducing delays associated with routine maintenance and fit out works
- improving efficiency for building owners, occupiers and contractors

Members also noted that this could be particularly beneficial in mixed-use buildings, where routine commercial fit out or maintenance works with no material fire or structural safety impact can currently be captured by extensive gateway requirements.

Question 14: What would be the risks of removing work internal to flats and small-scale work from the BSR's oversight in the higher risk regime to other building control bodies?

Potential risks include:

- inconsistent interpretation between different building control bodies
- uncertainty regarding which works should remain within the higher-risk regime
- reduced oversight of works that may appear minor initially but still affect wider building safety systems
- potential impacts on compartmentation, active fire safety systems or structural performance where works are not appropriately assessed

Members stressed that many fires originate within flats and that some internal works can affect the wider fire strategy of a building. Any transfer of oversight away from the Building Safety Regulator would therefore need to be supported by clear guidance, robust competency requirements and appropriate safeguards for higher-risk categories of work.