Response to call for evidence for Independent Review of Building Regulations and Fire Safety

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Fire Industry Association

The FIA is the largest fire protection trade association in the UK with 700+ members. We are a not-for-profit organization and a major provider of fire safety training.

Our objective is to promote, improve and perfect fire protection methods, devices, services and apparatus.

We achieve this through the representation of our members, providing technical support, guidance and opportunities for professional advancement through education and appropriate regulation.

We promote and shape legislation and the professional standards of the fire industry through close liaison with government and official bodies, as well as other key stakeholders.

We also provide funding for research projects in line with our principal objectives.

Member consultation

The FIA issued a call for experts to join a Special Interest Group to review the call for evidence and formulate an FIA response.

This is the resulting document and summarizes they key findings from the SIG discussions.

The overarching legal requirements

Q1 - *To what extent are the current building, housing and fire safety legislation and associated guidance clear and understood by those who need to follow them? In particular:*

• *What parts are clear and well understood by those who need to follow them?; and, if appropriate*

FIA Response

As can be seen from appendix B there are many documents to be understood by building designers and operators. While fire engineers, when involved, may have a good understanding of the requirements, in practice they are only involved in a minority of projects and even then, only for the design stage. We also find that individual specialists often have detailed knowledge of their particular discipline but little knowledge of the overarching fire safety requirements and how their actions may have an impact upon them.

There are also a large number of detailed aspects of fire safety regulations which are not well understood. An example is in relation to fire resistance of walls. Our experience is that it is only a small minority of the industry that are even aware of the difference between integrity, insulation and loadbearing capacity.

The regulatory reform order (RRO) places great emphasis on building owners and responsible persons. Feedback seems to suggest that responsible persons often have limited understanding of the fire safety legislation and guidance. There does not seem to have been any research into this and given the importance assigned to them by the RRO the FIA strongly recommends that this group is the subject of further government research/survey.

• *Where specifically do you think there are gaps, inconsistencies and/or overlaps (including between different parts of the legislation and guidance)? What changes would be necessary to address these and what are the benefits of doing so?*

FIA Response

Regulation 38 of the Building Regulations requires that at the end of a project the fire safety information for that project should be handed over to the responsible person. Whilst Approved Document B gives some limited guidance, on this issue, it is not clear on a number of key issues Moreover, there seems to be no known name or term for this document that would be understandable to end users (referring to it as the Regulation 38 documents would not explain its purpose to non-specialists). As this document is critical to maintain the integrity of the fire safety measures over the building's lifetime it would be helpful if specialists who may want to see this document at least know what to ask for. It is felt therefore, that control of this regulation is clearly lacking rigor.

The FIA recommends that this document is treated as a core document essential for the maintenance of the overarching fire safety plan for the building and its fire safety systems. This document should be kept by the Responsible Person and provided to all specialist fire system providers/maintainers to ensure adequate system/service provision.

In blocks of flats the lack of comprehensive legislation covering all areas of the building causes problems. The RRO only covers communal areas with other legislation such as the housing act covering the flats. This can cause gaps in coverage and conflicts in resolution. E.g. whether external walls should be covered under fire risk assessments.

Roles & Responsibilities

Q2 *Are the roles, responsibilities & accountabilities of different individuals (in relation to adhering to fire safety requirements or assessing compliance at each key stage of the building process clear, effective and timely? In particular:*

• *Where are responsibilities clear, effective and timely and well understood by those who need to adhere to them/assess them? and, if appropriate*

FIA Response

FIA members felt that the responsibilities within the design team during the design stage are relatively clear and well understood. The process for design, installation, commissioning and handover are well established and work well.

However, there can be issues during construction on specific items – e.g. if an electrician makes holes in a fire rated wall for cables, would that electrician be responsible for making the hole good afterwards (which would often be outside their expertise), or would that be down to a specialist (which the main contractor may not have appointed).

One point identified where there is some confusion revolves around Building Control, who's sign-off is regularly seen as a mark of quality control. It is not always understood by designers that if they adopt 'advice' from Building Control that does not absolve the designer of responsibility. The limited extent of Building Control site inspections is also not well understood in general.

The identification and responsibilities of a responsible person under the RRO are often not well understood. In many cases there are multiple people and organizations dealing with the building and none of them accepting responsibility for being the 'responsible person'.

• *Where specifically do you think the regime is not effective?*

FIA Response

As Building Control site inspections are only infrequent, they would often miss potential faults, especially within concealed areas (facades, floor & ceiling voids etc.).

• *What changes would be necessary to address these and what are the benefits of doing so?*

FIA Response

The FIA recommends increased inspections by building control or third parties especially of concealed areas & high-risk buildings.

The FIA also recommend that the government make public any statistics, on building control and fire enforcement authority inspections and findings (especially for high risk buildings such as hospitals, high rise, EPH etc.). This data is needed to ensure that this core monitoring function is fit for purpose and properly resourced.

Q3 *Does the current system place a clear over-arching responsibility on named parties for maintaining/ ensuring fire safety requirements are met in a high-rise multi occupancy building? Where could this be made clearer? What would be the benefits of doing so?*

FIA Response

The role of the responsible person is clear. However, in some cases where multiple people or organizations are involved, the responsible person is not clearly identified and sometimes not known even to themselves. It is often not clear if the building owner or the building operator is responsible in multi-tenancy occupancies.

The FIA recommends that the RRO (or guidance) be modified to require that a Certificate of Building Fire Safety should be clearly displayed in the entrance of buildings with the following information:

- Responsible person (name and contact details)
- Fire risk assessment (last date and next review date)
- Name/organization and qualifications of the person who carried out the fire risk assessment
- Level of risk identified during the fire risk assessment
- Fire enforcement authority

This would then mean that anyone who uses the building (or anyone from the fire authority who visits the building) can clearly see who the responsible person/people is/are, know how to contact them and can see whether the fire risk assessment is up to date. If the certificate is not present, or does not contain a named responsible person, then that would be an immediate and obvious breach of the regulations.

In addition, once the fire risk assessment is done there then needs to be a check that the assessed risks have been dealt with in an appropriate manner.

Once again it is critical that the building fire safety information required by regulation 38 is available to the responsible person.

Competencies of key players

Q4 *What evidence is there that those with responsibility for:*

• *Demonstrating compliance (with building regulations, housing & fire safety requirements) at various stages in the life cycle of a building;*

• *Assessing compliance with those requirements are appropriately trained and accredited and are:*

adequately resourced to perform their role effectively (including whether there are enough qualified professionals in each key area)? If gaps exist how can they be addressed and what would be the benefits of doing so?

FIA Response

3rd party certification of product is well established and in many instances enforced by regulation (e.g. Construction Products Regulation). However, designers, installers and maintenance companies have no legal requirement to be 3rd party accredited and while voluntary schemes exist the take up over different disciplines is varied (see attached table).

There are limited requirements for the assessment of competence among different fire safety disciplines. FIA has been working hard to establish a formal qualification for FD&A systems which will be rolled out in January 2018. In other disciplines, such as fire engineering, Chartered Engineer status has been available via the IFE for several years, but in practice it is only the minority of people who practice as fire engineers who meet that criteria.

Enforcement & Sanctions

Q5 *Is the current checking and inspection regime adequately backed up through enforcement and sanctions? In particular*

• *Where does the regime already adequately drive compliance or ensure remedial action is always taken in a timely manner where needed?*

• *Where does the system fail to do so? Are changes required to address this and what would be the benefits of doing so?*

FIA Response

During the construction process the primary responsibility for checking is down to Building Control. In practice, the level of on-site checking is limited and for parts of the building which become sealed up, hidden or hard to access-, this is insufficient. For example, the installation of cavity barriers within

external walls, and the penetration sealing in fire rated walls above suspended ceilings is often very substandard (or not carried out at all).

The principal sanction is the commercial pressure of finishing and handing over the project (avoiding penalties). Therefore, the penalties for failure to satisfy Building Control requirements can be substantial. The response from contractors would often be to cover up areas quickly in order to avoid the risk of Building Control identifying problems that would then need rectifying.

Lack of separation between building control and designers (in situations where a single company offers design/engineering and building control services via subsidiary companies) has been an issue highlighted by the FIA. This has resulted in BCA guidance on separation between approved inspectors and designers within the same group of companies. Similar issues are possible between local authority building control and the local authority design team.

The operational phase of a building is problematic. The Fire Service will check periodically but this is very much a snapshot and it is essential that the responsible person understands that this inspection does not absolve them of their responsibility. In particular, inspection of parts of the building that are hard to access is often not feasible (e.g. within external walls, above non-demountable suspended ceilings).

The FIA recommends that the government provides data for fire service inspections including data on:

- How many inspections
- How many findings
- How many prosecutions

Another issue identified by the FIA is the difficulty in enforcing fire safety requirements on tenants. A good example is where the tenant owns the front door to their apartment and the landlord requires a defined fire resistance to ensure the safety of all occupants. This can lead to legal complications leading to spiraling costs.

Tenants' & Residents' Voice in the current system

Q6 *Is there an effective means for tenants and other residents to raise concerns about the fire safety of their buildings and to receive feedback? Where might changes be required to ensure tenants'/residents' voices on fire safety can be heard in the future?*

FIA Response

The FIA recommends that all tenants are made aware as to who is the responsible person. It is equally important that the responsible person ensures that tenants are aware of the fire safety policy and of their responsibilities. Introducing the Building Fire Certificate concept as detailed under Question 3 would help this issue.

Currently there does not appear to be any arbitration process and Tenant's do not know where they can go to resolve disputes. This is a core requirement to build confidence and to ensure landlord accountability.

The FIA also recommends that for multi-tenanted properties there should be an annual meeting between the RP & tenants to review fire safety concerns including a review of the risk assessment.

In situations where tenants are regularly disabling or undermining fire safety precautions efforts should be made to provide equipment/systems to deal with the underlying issue (e.g. Magnetic door release units on fire doors).

Quality Assurance and Testing of Materials

Q7 *Does the way building components are safety checked, certified and marketed in relation to building regulations requirements need to change? In particular:*

• *Where is the system sufficiently robust and reliable in maximizing fire safety and, if appropriate*

• *Where specifically do you think there are weaknesses/gaps? What changes would be necessary to address these and what would be the benefits of doing so?*

FIA Response

FD&A products are mainly (with the exception of a limited number subject to non-harmonized standards) 3rd party certified as required under CPR. However, the FIA would appreciate any guidance that can be given as to how this regulation will be treated when the UK leaves the EU.

Fire suppression systems are usually third party certified to the appropriate standard.

Passive fire protection has a more variable coverage. There are many 3rd party schemes available but take up is patchy. For example, fire doors have well established schemes while penetration sealing & cavity barriers have a much lower take up.

Fire testing is a complicated subject and at present technical specifications tend to be produced by architects and other non-fire specialists who often do not fully understand the fire tests. There needs to be more training for architects and other specifiers on this subject or fire engineers should be involved more to check product fire performance specifications.

Safety performance of materials needs to be declared in a clearer and more concise manner. Technical literature demonstrating fire performance should clearly explain any limitations to the application of the product and requirements as to the method of installation.

In general, there needs to be a requirement for third party certification of all fire safety systems, products and installers. This should include a check of technical documentation to ensure that it includes all relevant information and no misinformation.

Differentiation within the current Regulatory System

Q8 *What would be the advantages/disadvantages of creating a greater degree of differentiation in the regulatory system between high-rise multi occupancy residential buildings and other less complex types of residential/non-residential buildings?*

Where specifically do you think further differentiation might assist in ensuring adequate fire safety and what would be the benefits of such changes?

FIA Response

When all the different regulations and guidance's are reviewed the FIA feels that there is already too much complexity within the current system. We need a simplification of the rules and better enforcement of existing requirements.

We believe that for high risk premises there should be a higher level of site inspections & verification to ensure that fire safety standards are implemented & maintained properly. This will particularly apply to hidden areas that will be difficult to inspect once the building is complete (e.g. external walls).

Risk assessments for such buildings should be reviewed annually or after any refurbishment.

At present the RRO does not cover fire brigade facilities to any great extent, but in buildings such as blocks of flats where there is a stay put policy, good fire brigade access is a key fire safety issue. FIA recommend that where fire brigade access is a critical part of the fire precautions in high rise/high risk buildings the RRO should include a greater emphasis on ensuring acceptable fire brigade access and facilities.

While the FIA understands the benefits of stay put policies we believe consideration should be given to the installation of manual evacuation systems for use by the fire service. These could provide significant benefits in situations where the fire precautions have been breached and larger scale evacuation becomes essential.

Additional heat detection within the entrance of each flat as part of a landlord system and linked to an ARC to call the fire brigade could further enhance safety. This would ensure that the fire brigade is called where responsibility for calling them is unclear. As heat detection is being used false alarm issues would not be significant. This would be a relatively low cost, maintainable system the requirements for which could be incorporated in guidance documentation.

International Comparisons and Other Sectors

Q9 *What examples exist from outside England of good practice in regulatory systems that aim to ensure fire safety in similar buildings? What aspects should be specifically considered and why?*

FIA Response

Other countries (Denmark, Switzerland, Germany) implement strict third-party certification schemes for installers/maintainers of fire safety systems.

Norway requires extinguishers or hose lines attached to faucets in every home, in addition to smoke alarms. Home occupants are trained to extinguish small fires because the fire service cannot arrive within the 2–4 minutes it takes for many fires to reach flashover.

Scotland and Wales have implemented significant regulation for the installation of sprinklers and the FIA believes that these can play an important role in fire safety within high rise buildings. We recommend that a cost/benefit analysis be undertaken to consider reducing the height criteria from the current 30m limit and retrospectively introducing them into existing high-risk buildings.

Q10 What examples of good practice from regulatory regimes in other industries/sectors that are dependent on high quality safety environments are there that we could learn from? What key lessons are there for enhancing fire safety? Reminder - Respondents should answer questions as broadly as

possible and focus on making suggestions for future improvements as well as identifying areas that currently

FIA Response

The Gas Safe (CORGI) certification scheme has been successful in increasing the level of public confidence in gas installers as well as raising standards in the industry.

London Underground have a policy that when works are being carried out, improvements should be made to in the standards of fire safety, where reasonable within the extent of the works (rather than just not making anything worse).

There are other areas in buildings where the responsible persons are listed and made publicly available such as Health & Safety in the Workplace, Food hygiene, licensed premises. EPC. (energy performance certificate).