

BUILDING REGULATIONS COMPLIANCE – A NEW CULTURE MEANS A NEW WAY OF WORKING

ADVISORY NOTE FROM THE CIC BUILDING SAFETY COMMITTEE

The CIC Building Safety Committee was formed to CIC to be able to respond to matters arising from the challenges set out by Dame Judith Hackitt in her report “Building a Safer Future”.

Changes to the way our industry works

Responding to those challenges will include significant changes in the way our industry works. The Building Safety reforms are being described as the biggest change to building regulations/standards compliance for over 40 years.

One of the biggest shakeups is in the area of enforcement and it is emerging that what we have experienced over the last 40 years as “Building Control” is set for significant change. That will in turn mean a completely new way of working for our multi-disciplinary teams.

The CIC Building Safety Committee has set communication with our member organisations as one of our key Building Safety strategy actions.

Getting ready for the new Building Control regime

For the past 40 years Building Control (whether delivered through the private sector or the local authority) has had two distinct aspects, enforcement and advice.

In the case of discovering non-compliant work that the builder/client will not rectify, Local Authorities (LA) have a formal enforcement role where notices can be issued requiring offending work to be remedied or removed and the LA can pursue prosecution of offenders.

Private sector building control (currently “Approved Inspectors”) have no formal rectification or prosecution powers. Instead they must withdraw from their involvement and revert the works back to local authority control to allow formal enforcement to be pursued.

The formal enforcement approach has been problematic and extremely resource heavy for Local Authorities and therefore both LAs and AIs have been encouraged to engage in informal ‘enforcement’ interventions as part of their advisory service.

Dame Judith Hackitt discovered in her review of the BC system that this system of relying on informal interventions is now failing to address growing non-compliance in the industry and, more seriously, there has been a blurring of the understanding of where primary compliance responsibility lies.

How are things changing?

The new regulatory system is to make significant changes to the Building Control system:

- There is to be a much stronger and more efficiently implemented formal enforcement system, separated entirely from advisory services and;
- Where the prime compliance responsibility lies i.e. client, designers and builders will be made very clear with the introduction of statutory dutyholder roles.

This will mean that the new expectation is that designs presented to the regulators will need to be presented as a confident compliant design rather than an offer for the regulator to consider and offer advice as to whether compliance has been reached or whether change is needed. The regulator will not take a role of providing detailed ongoing commentary to the project team to advise on the emerging design as often happens now. The obvious implication for industry is that any advisory role will need to be provided separately from those providing the regulatory role.

This will certainly be the way the regime will work in the case of “Higher Risk Buildings”, but we are hearing that the Building Safety Regulator, as overseer of the overall Building Control system for all other buildings is keen to see this type of separation employed in the remainder of the BC mechanisms.

About this note

Our advice in this note is therefore for member bodies, particularly those directly involved in design and construction works, to advise their members as to the implications of the separation of enforcement and advisory services in the BC services and encourage them to seek to ensure that their teams are set up to incorporate any necessary compliance advisory advice independent of the regulatory provider.

Please note that this is a generic note, and we realise that some design/construction teams will be confident that they have the necessary competency to be largely unaffected by this change of focus in the regulatory teams. The biggest impact will of course be faced by those who have relied heavily on the advisory offering by their building control body.

We are aware that many building control bodies will no doubt continue to offer advisory/consultancy services independently of the separate regulatory building control provider.

We are also aware that even though the regulator (be it the Building Safety Regulator or the LA/Building Control Approvers), whilst keen to remain independent of design detail, will offer a level of support on high level questions e.g. high level fire strategy direction.

The note is advisory, and although we intend to provide further advice, CIC member organisations are urged to keep themselves up to date regarding what is an evolving situation

Any queries on any matters contained in this note can be referred to the Building Safety Committee through Matt Mahony at CIC mmahony@cic.org.uk