This week saw the announcement of new building safety reforms by Housing Secretary Robert Jenrick MP.

The proposals show a clear obligation for building owners/leaseholders to press on with remediation work as soon as possible, and evidence a move away from the emphasis on building height as a threshold for building safety requirements. In this latest update in our series ‘Building a safer future’, we consider the extent of the latest reforms and their impact on the construction industry.

**Background timeline**

- Government changes to Building Regulations Dec 2018 – ban on combustible cladding in buildings over 18m high.
- The Queen’s Speech – 14 October.

Please refer to our previous update, **Building a safer future – recent key developments**, for further information as regards the background events above.

**Latest reforms**

On 20 January 2020 Robert Jenrick MP addressed MPs in the House of Commons on a new package of building safety reforms. In doing so, he noted the “unacceptably slow” progress of changes to building fire safety and voiced his intention that the newest reforms should go further, and at greater speed. We address each of the changes in turn below:

- A new Building Safety Regulator will be established within the Health and Safety Executive “within a matter of weeks”. The regulator will be appointed ‘in shadow’ ahead of implementation of the relevant legislation. Dame Judith Hackitt will chair a board to oversee transition to the new regime.
- Following completion of the government’s consultation on sprinklers and other fire safety measures in November 2019, it is likely that the height threshold for sprinkler requirements in new buildings will be reduced from 18 metres to 11 metres. Detailed proposals will follow in February 2020.
- The government will consult on lowering the height threshold of the ban on combustible materials in external walls of high rise buildings from 18 metres to 11 metres “at most”.
- The government has published updated advice from the Independent Expert Advisory Panel as regards the steps that building owners should be taking to ensure building safety. This supersedes Advice Notes 1 to 22 and can be viewed here. In particular, there should be less emphasis on the height of the building and more emphasis on ensuring that buildings of any height are safe for residents. Advice provided by the panel makes it clear that ACM cladding with an unmodified polythene core should not be used on buildings of any height. The advice also clarifies the actions that building owners should take to remediate fire doors that have failed fire safety tests.
- The government is calling for evidence as regards the assessment and prioritisation of risks...
associated with cladding within existing buildings. Again, it is envisaged there will be less emphasis on the height of the buildings when assessing fire safety risks. Factors other than height (e.g. materials, vulnerability of residents, and location of escape routes) should be taken into account and a new risk assessment system put in place which will, in turn, inform future regulatory regimes.

- Remediation of unsafe ACM cladding is still considered too slow. This is especially so where remedial work is being funded by the government. An independent construction expert will be appointed to review remediation timescales and identify what can be done to increase the speed of remediation work. To incentivise work, from February 2020 the government will name and shame those responsible for buildings where remediation work has not yet started and will work with local authorities to drive enforcement.

- There will shortly be a Fire Safety Bill which will include the regulatory changes required as a result of the Grenfell inquiry phase 1 report. These changes will clarify that building owners/managers must consider the risks of external walls and fire doors in buildings of any height. The Bill will also affirm the ability to enforce against building owners who have not carried out required remediation work.

- The government is considering further costs measures to support leaseholders in meeting the costs of remediation, including alternative financing routes – further details are to follow.

Considerations

The latest proposals show the government’s desire to expedite remediation work and the harsh consequences that will be imposed on building owners/managers who fail to comply.

The proposals show an obvious move away from building height as a threshold for implementation of fire safety measures/remediation work. Robert Jenrick MP’s proposals reveal a clear focus on the safety of residential buildings in general, not just those over 18 metres high.

Building owners are encouraged to consider the safety of all types of residential buildings and to take necessary steps to ensure safety (removal of ACM cladding etc.) on buildings of any height. It is likely that this will become law following the passage of the new Fire Safety Bill through Parliament.

As before, building owners/managers are best advised to seek advice, consider and begin to implement any changes that are required now. They should not wait for formal legislative change. The appointment of a new duty holder to review the safety of existing buildings should take place as soon as possible. It would also be sensible to ensure that sufficient costs are set aside to cover any remediation work that is required and the payment of any additional employees. A proactive approach towards building safety is the only means by which to avoid the potential consequences of non-compliance – initially the chance of being named and shamed and later, with the appointment of the new HSE Building Safety Regulator, significant fines/criminal sanctions.

We will issue further updates as proposals emerge/legislative change take place.