GLA’s briefing on the building safety bill

1. What is the bill?

1.1 The Government published the draft building safety bill on 20 July, 2020. The draft bill is the result of Government consultation and engagement on the reforms needed to avoid another tragedy like that at Grenfell Tower. The draft bill brings about a major reform of the regulatory system for building safety.

1.2 This is new legislation that will introduce a range of changes to make buildings safer in the future. The content of the bill was drafted by central Government. The GLA is not responsible for the detail of the bill but can suggest changes to parliament to improve it before it becomes law. The draft bill is currently undergoing a process of legislative scrutiny, and a call for evidence is open to inform this work. The GLA will be responding to this call for evidence, by the deadline of 14 September, 2020.

1.3 This briefing offers an overview of the key proposals in the draft bill, and the main asks that the GLA will put forth. However, this is not a summary of all the detail in the bill. The GLA is seeking feedback on its proposed lobbying asks from the Grenfell community and resident organisations, and other parts of the voluntary and community sector, by 4 September, 2020.

2. Key proposals in the bill

Buildings in scope

2.1 The draft bill proposes the more stringent regulatory regime to apply to “higher risk buildings.” The draft bill does not define “higher risk buildings”. However, explanatory notes propose defining a “higher risk building” as a building that is either over 18m or has more than six storeys and contains: a) two or more dwellings (i.e. houses, flats or serviced apartments); b) two or more rooms for residential purposes (e.g. supported accommodation); or c) student accommodation.

2.2 The explanatory notes define a “room for residential purposes” as a room other than in a dwelling, which is used by one or more persons to live and sleep but “excluding a room in: a) a residential care home; b) secure residential institutions (e.g. prison, detention centre); or c) temporary accommodation (e.g. a hotel, hostel, guest house, hospital, hospice).”
### 2.3 New Building Safety Regulator

The proposed new regulatory system will be headed by a Building Safety Regulator. They will be responsible for ensuring new building safety standards and regulations are met across the United Kingdom.

### 2.4 Duty-holders and gateway points

At the core of the new regulatory regime is a system of duty-holders, who are responsible for demonstrating the safety of a building at each lifecycle stage or gateway point. At all times across the lifecycle of the building, duty-holders will be responsible for:

- Maintaining building information related to structural and fire safety (also known as the ‘golden thread’).
- Reporting any structural or fire safety related event which is perceived to represent a significant risk to life.
- Ensuring that they and those they employ have the necessary competence (skills, qualifications and expertise) for the work they have been hired to do.
2.6 The duty-holders for the design and occupation stage are the client, principal designer, and principle contractor, who share various responsibilities throughout the three gateways.

2.7 The three gateway points during design and occupation are detailed below:

- **Gateway one is passed once planning permission is granted.** At this stage, the Regulator will consider fire safety issues related to planning. The developer will be required to submit a Fire Statement with their planning application, setting out fire safety considerations.

- **Gateway two is achieved when permission is granted for construction to begin.** If permission is granted at this stage, the Regulator will set up site inspections throughout the construction process, to ensure that work is progressing safely.

- **Gateway three is passed when permission is given for residents to occupy the building.** The duty-holders will submit information on the finished building and co-sign a final declaration confirming that, to the best of their knowledge, the building complies with the Building Regulations. Residents can only legally occupy the building after the Regulator is satisfied it is safe.

2.8 During a building’s occupation the duty-holder is known as the ‘Accountable Person’. The Accountable Person is legally responsible for: 1) registering all buildings in scope with the Regulator; 2) knowing and understanding the fire and structural risks in the building; and 3) taking appropriate steps to mitigate and manage these risks so the building can be safely occupied (this includes the upkeep of the structure and outside of the building).

2.9 As part of the new regime, the Accountable Person will need to submit a safety case to the Regulator. These reports are expected to be held digitally (in the “golden thread”).

2.10 If refurbishment is planned, the Building Safety Manager will need to engage with residents on the refurbishment proposals. Residents who want to refurbish their own property will need to notify the Building Safety Manager, who will confirm whether the refurbishment can go ahead.

2.11 Under the draft bill, the Building Safety Regulator will be able to issue stop and compliance notices where a requirement under the new regime is breached. Failure to comply with these notices could result in a maximum penalty of up to two years in prison or an unlimited fine, or both, for Building Safety Managers or the Accountable Person.

**Resident engagement**

2.12 In the new regime, residents are expected to:

- **Have new rights to request detailed information and be involved in decisions** about the safety of their building. The Building Safety Manager will be

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1 The client is a duty-holder for whom a construction project is carried out as part of their business.
2 The principal designer is appointed by the Client under Construction (Design and Management) Regulations 2015 to plan, manage, monitor and coordinate the preconstruction phase, when most design work is carried out.
3 The principal contractor is appointed by the Client under Construction (Design and Management) Regulations 2015 to plan, manage, monitor and co-ordinate the construction phase.
responsible for producing and implementing a Resident Engagement Strategy, setting out how they will involve residents in decision making.

- **Have their complaints about safety dealt with quickly and effectively.** Residents will be able to raise complaints with their Building Safety Manager, or directly with the Regulator, where they feel that a) their complaint has not been properly addressed; or b) their complaint refers to an issue that is of significant risk to life or serious injury.

- **Be required by law to cooperate with the Building Safety Manager** to keep the building safe. Their legal responsibilities will centre around avoiding actions that could pose a risk to the fire and structural safety of the building, including: making structural alterations to flats, removing and replacing compliant fire doors or windows, and damaging and removing fire safety features.

### Building safety charge

2.13 The draft bill proposes amending the Landlord and Tenant Act to set up a building safety charge for leaseholders. This new charge will be separate to the service charge, through which fire safety works are currently paid. Freeholders will be required to hold funds collected through the charge in a separate account held by a financial institution.

2.14 Freeholders are required to offer a breakdown of costs and demonstrate that services covered by the charge were warranted. Leaseholders are able to refuse payment if the charges are deemed “unreasonable” or if they are not satisfied with the breakdown of costs provided by the freeholder.

2.15 Measures to be covered by the charge include costs of building safety work (e.g. fitting sprinklers and fire safety doors), monitoring and management of day-to-day safety in the building, the production of safety cases, costs of a building safety manager, and fees and charges payable to the regulator. However, the draft bill indicates that certain costs, such as those resulting from enforcement action or negligence, cannot be recovered through the building safety charge. Additionally, costs incurred more than 18 months before the demand for payment is made cannot be covered by the charge.

### 3. The GLA’s position on the bill

3.1 The GLA’s position on three key areas is presented below. **We would like to receive any feedback you have on these or other areas of the bill, by 4 September, 2020.** In particular, we would welcome views on whether you support these asks, as well as any evidence that can help further inform the GLA’s position on the areas below. To e-mail your responses/comments on these proposals, please contact Dominic Ping: dominic.ping@london.gov.uk.

### Buildings in scope

3.2 The GLA welcomes the expansion of the definition of buildings in scope to include student accommodation and mixed-used buildings with two or more dwellings. However, we are disappointed that the definition of a “higher risk building” only includes supported accommodation buildings of at least 18m or six storeys in height. We therefore call on the
Government to review this definition and expand the scope of the bill to apply to all supported accommodation, regardless of height.

3.3 Residential care homes, regardless of height, must be covered by the bill, because of the vulnerable individuals they house.

3.4 In the longer term, we would like to see the definition of a ‘higher risk building’ expand to not be limited by height but rather be based on an assessment of risk, following a risk based approach. This, given that height may not always be a decisive factor in determining the safety of a building. The GLA asks the Government for reassurances that all buildings that may present a fire safety risk will still be captured by the new regime even if they do not meet the current height specifications.

**Building safety charge**

3.5 The GLA urges the Government to provide assurances that the building safety charge will not be used to cover remediation costs that are associated with rectifying the failings of past building safety legislation and the current regulatory system, which have compromised the safety of many buildings. This includes either cladding or non-cladding remediation costs.

**Enforcement measures**

3.6 The GLA welcomes the tougher enforcement measures introduced by the draft bill. We are, however, concerned about the mechanisms available for monitoring and enforcement, especially for buildings in existence for which there will be fewer points of accountability compared to new buildings.

3.7 The GLA asks for greater clarity on how remediation works on existing buildings will be monitored, in terms of the adequacy of measures implemented and the timelines for implementation.

3.8 The GLA asks for greater clarity on the protections that will be in place for penalty fees to not be passed onto leaseholders under any circumstances.