

Tel: 01727 840 723. Mob: 07711 81 22 71
Email: tommy.sam@ukgateway.net

Clive Betts MP,
House of Commons,
London,
SW1A 0AA.

20 Belsize Close,
St Albans,
Herts.,
AL4 9YD.

13th July 2018

Dear Mr Betts,

I understand you will be considering the Final Report of Dame Judith Hackitt into her Independent Review of Building Regulations and Fire Safety. The Report contains much that is commendable; however, inevitably, there are fundamental matters that would be better done differently. The purpose in writing is to draw your attention to these. Comment is made under the following headings:

1. The London Building Acts and District Surveyors
2. The Joint Competent Authority
3. Independence of the Controlling Body
4. Site Inspection of Building Work
5. Responsibility for Compliance
6. Conclusions

However, firstly, in making my submissions to the Review, it became apparent it had no knowledge of the London Building Acts system of building control successfully operating in Inner London for some 300 years and under which Grenfell Tower was built in the 1970's, nor of the statutory role of District Surveyors who largely implemented that system – indeed, neither the London Building Acts nor District Surveyors are mentioned in either Dame Judith's Final Report or the Interim Report, not even in the Chapter on 'History'! How a Review of building control can omit any reference to it is beyond belief.

The London system of building control had three notable merits:

- a. It was implemented by independent Statutory Officers – District Surveyors
- b. It combined the roles of the Building Control Authority and the Fire Authority in a single Authority – the London County Council (LCC) and its successor, the Greater London Council (GLC).
- c. It controlled building works mainly by site inspection of those works as they were carried out.

These merits are the core of any effective and independent building control system, and any future system needs to be built around them. Since Dame Judith has seen fit not to include mention of this system in her Reports, I consider it necessary to provide here a potted history of that system and its operation so you may better understand it and these comments – please forgive me if you already know about this. An outline of the London system and its implementation is therefore contained at Item 1 below.

1. The London Building Acts and District Surveyors.

1.1 I believe there are many aspects for an effective and efficient future system of control that can be taken from the London Building Acts system with its implementation by statutorily independent District Surveyors.

1.2 The Inner London System, as it's been called, has its origins in the 1666 Great Fire of London since when, overseeing compliance with the rules for the construction of buildings in London have been entrusted to Surveyors commissioned, firstly, directly by the Monarch and then, in the 19th and 20th centuries, under the London Building Acts, by the LCC and its successor the GLC.

1.3 In the latter part of the 1700's, these surveyors were given the title of District Surveyors and held office as Statutory Officers thus their decisions were completely independent of influence by property owners, developers and builders, whether they be individuals, companies or Local Authorities. Since the late 1880's, the system has been contained in the London Building Acts with the detailed rules subsequently being embodied in Constructional By-laws; by periodic revision, these by-laws were able to keep abreast of the development in construction methods over the years, particularly from the viewpoint both of structural safety and fire safety.

1.4 District Surveyors were responsible for specific geographical areas; in more recent times, these areas were co-terminus with those of the Inner London Boroughs thus, up to 1986, there were 28 statutory District Surveyors overseeing the construction of all buildings in Inner London (there were a few exceptions – notably, Crown owned property).

1.5 One of the main merits of the system was that the LCC/GLC were not only the Building Control Authority but also the Fire Authority thus the main participants of Dame Judith's proposed 'new' Joint Competent Authority (JCA) were already in place and have successfully operated in Inner London for well over 100 years up to 1986 when, for political rather than technical reasons, the system became a casualty of the abolition of the GLC. Indeed, being within a single Authority, the 'collaboration' envisaged by Dame Judith between the several separate authorities was far exceeded.

1.6 Particularly regarding Tower Blocks, the LCC/GLC's Consent under the London Building Acts was needed prior to their erection or alteration, whereby requirements (which were legally of a continuing nature), in respect of fire prevention and also fire escape arrangements were able to be imposed (Sections 20 & 34 of the 1939 Act refer). These requirements were formulated by the LCC/GLC's centrally based Building Regulation Division and were tailored to the specific needs of each building with their implementation being overseen by the locally based District Surveyors. No doubt Sir Martin Moore-Bick's Enquiry will discover the relevant Consent documents containing the continuing requirements for Grenfell Tower when it was built.

1.7 Additionally, the Constructional By-laws in operation in 1976 required external cladding to be composed of materials approved by the District Surveyor; for high-rise buildings it was the norm to require non-combustible materials. It is my contention, and those of others, had that legislation not been repealed but been in place at the time of the 2015/16 refurbishment, this tragedy would not have occurred.

1.8 Unfortunately, in 1986, the GLC was abolished and the mandarins took advantage of the event to do away with the Statutory Office of the District Surveyor, disseminate and fragment the Building Control Function to the various Inner London Boroughs and to introduce the inferior National Building Regulation system of control to Inner London. Further erosion of controls ensued with the gradual repeal of the few remaining sections of the London Building Acts including those enabling comprehensive fire safety and fire escape requirements to be imposed on tower blocks (Sections 20 and 34 respectively). Thus Consent documents, itemizing the fire precautions required, tailored to the specific needs of each individual building, were no longer produced.

1.9 They were replaced by provisions in The Regulatory Reform (Fire Safety) Order 2005 which placed responsibility on 'The Responsible Person' (usually the owner) to carry out a 'Risk Assessment' of their premises and to implement any fire precautions found necessary. There is no provision requiring any authority to carry out regular inspections of all premises to ensure 'The Responsible Person' carries out these duties, only sanctions should contraventions come to light.

2. The Joint Competent Authority (JCA).

2.1 The Joint Competent Authority, a tripartite proposal for administering building and fire safety controls, is a completely new and untried concept, with the details of how it will work significant by their absence. Whilst any arrangement can be 'made to work', it is anyone's guess how effective the collaboration will be between these three separate levels of government – at Borough/District level (the Building Control Authorities), at County Level (the Fire Authorities) and at Government level (the Health & Safety Executive).

2.2 What the Health and Safety Executive will bring to the JCA is not clear; it seems they are expected to adjudicate when the Building Control Authority and the Fire Authority fail to agree. If the Building Control Authority and the Fire Authority follow the LCC/GLC model and become one authority at County level and so form the JCA, the presence of the HSE is unnecessary since any dispute arising will be resolved internally.

2.3 I believe a golden opportunity is therefore being missed to streamline building controls whereby, within Counties, the functions of the Building Control Authorities and the Fire Authority can be amalgamated in one County Authority, as was the case in Inner London for over 100 years prior to 1986. This combined function, as operated by the LCC/GLC under the London Building Acts, has proved a successful arrangement for fire and structural safety in the centre of the metropolis and, whilst providing it throughout the country will incur capital costs, it will avoid the need for the JCA's proposed complex, ongoing and continuingly expensive liaison arrangements between the many authorities.

2.4 Why do we need to invent a completely new and untried system of Control, as proposed by the Report, when there is a tried and trusted model of control that has served Inner London well for the best part of 300 years and it easily applied to the rest of the country?

2.5 Regarding the future role of Approved Inspectors (AI's) in respect of tower blocks, the Report allows them to work for the JCA to '*expand its expertise/capacity*' (Recommendation 2.11c refers); this must not be allowed to happen since, clearly, conflict of interests can still occur.

For example: an AI is employed to provide expertise to the JCA in respect of a building, the owner of which is Smith & Co. The AI may have worked on many of Smith & Co's buildings in the past and wishes to continue to do so in the future. If the AI finds problems with the building, which 'master' does he favour? Other providers of bought-in services could have similar dilemmas. AI's expertise should be available for employment by owners, dutyholders, their advisors and contractors.

2.6 There must be only one Controlling Body for all buildings; this needs to be large enough, sufficiently well-funded, and staffed with sufficiently competent staff, to be able to use in-house staff for all matters other than the most exceptional or specialised.

2.7 With so many 'actors' involved – for example, the myriad of persons carrying out Fire Risk Assessments – and with no monitoring by the JCA of their work, consistency of decision and uniformity of practice is unlikely to be achieved.

2.8 Qualifications. The Head of each JCA, notwithstanding they are already professionally qualified, should be required to pass a comprehensive examination in all technical and legal aspects of the control of buildings before being appointed; this would be similar to the week-long examination aspiring District Surveyors had to pass before being eligible for appointment – that Examination was administered by a Board consisting of persons from The Royal Institute of British Architects (RIBA), the Royal Institution of Chartered Surveyors (RICS), the Institution of Structural Engineers (ISE), the Chartered Institute of Building (CIOB) and the Chartered Institute of Building Services Engineers (CIBSE). Representatives of other bodies were included as needed eg persons from the Institution of Fire Engineers would be appropriate nowadays.

2.9 The Head of each JCA should be provided with sufficient administrative staff knowledgeable in finance, personnel and other administrative matters to allow the Head to be predominantly concerned with the day to day technical issues associated with the supervision of building work at site as it proceeds and with the assessment of proposals in the office for such work.

3. Independence of the Controlling Body.

3.1 Whatever Body is created to oversee structural and fire safety, it is paramount for it to be completely independent from influence by Owners, particularly local authority owners, their professional advisers and their contractors etc. Recommendation 2.11 (a) states '*It should not be possible ... for a regulator to be unable to apply sanction against the dutyholder ...*'. This will be impossible to achieve if the dutyholder is the local authority and the enforcing authority also incorporates that local authority – it is noted the majority of residential tower blocks are in the ownership of Local Authorities.

3.2 By its use of Statutory Officers in the form of District Surveyors, the London Building Acts together with the associated Constructional By-laws ensured the implementation of the legislation was impartial and not influenced by political or financial pressures whether from Owners – public or private – their designers, contractors, material supplier etc. The use of Statutory Officers to achieve the total independence needed is recommended and will provide the public with much needed confidence that any new system will be truly independent of local authority influence.

4. Site inspection of building work as it proceeds.

4.1 To state the obvious, Building Work takes place on building sites. Whatever checks and balances are put in place by certifications and other documentations, these are unlikely to completely prevent errors occurring and corners being cut, especially on site, in an attempt to overcome such errors without incurring additional costs or costly time delays, not to mention for face-saving reasons, and pressures can be exerted on people to achieve these ends – unless the threat of discovery, by proper and frequent site inspections by an independent controlling body, is present.

4.2 The whole Report is highly paper oriented with many many more documents, certificates and miscellaneous paperwork now needing to be produced and processed by the various parties and verified by the JCA. As Desk Top Studies, for the approval of materials, have been deemed unacceptable, why does the Report concentrate almost entirely on documentation processes in its proposals for future controls?

4.3 Whilst such processes are likely to prove of some help in producing safer buildings, there is concern that the army of personnel needed by the JCA to deal with this paperwork could divert staff away from the vital task of inspection and verification of the work as it proceeds at building sites. This must not be allowed to happen.

4.4 It needs to be recognised that the frequent site inspection of building work as it proceeds has been the cornerstone of the Inner London system for the past 300 years prior to 1986 and ensured the construction of safe and sound buildings. Indeed, where work is rapidly hidden from view when the next piece of work is put in place, as happens with cladding, only inspection (and unannounced inspections at that) at the time the work is being carried out can verify whether it is being done properly or not. Frequent site inspection will also engender public confidence in the system.

4.5 The use of the word 'oversight' regarding the functions of the proposed JCA is a vague and unfortunate choice of word since the usual understanding of it is that there has been a mistake! This term is liberally used throughout the Report, especially where the JCA is concerned, but what is it actually asking the JCA to do – is it to assess plans, documents etc in the office; is it to actually inspect building work on site as it proceeds during the construction stage or is it to inspect buildings on completion and during their subsequent occupied life? More definitive wording is needed.

4.6 Nowhere in the Report is the JCA specifically required to regularly inspect building work on site as it proceeds. The only mention of the term 'site inspection' is in Clause 2.43, 3rd bullet point, which speaks about '*ensuring the necessary risk-based site inspection regime is put in place*'. This leaves it very much open to debate what level of site inspections are to be provided – if any. The only other references that could be regarded as referring to site inspection occur in Recommendation 2.10, '*building work carried out by persons in a competent persons scheme should be subject to Full Oversight*', and in Recommendation 2.11b, '*oversight solely provided through Local Authority Building Control*'; the reference in Recommendation 3.6b relates only to inspections in the occupation and maintenance phase.

4.7 In my experience, and that of many others, the absence of frequent site inspection of building work, as it proceeds, by officers of an independent controlling body, will mean the aim of the Review – the safe construction of future buildings – is most unlikely to be achieved.

5. Responsibility for Compliance.

5.1 I support the proposal to put clearer responsibility for compliance on owners and all who are employed by them in the construction and subsequent ongoing maintenance of buildings; however, it is questioned whether the vast bureaucratic mountain of paperwork the proposed system will generate will, in fact, produce the desired result. Better for the JCA to also devote adequate resources to the site inspection of building work as it is carried out and the buildings maintenance once occupied – after all, it's what actually gets constructed at the site that determines whether the building is safe or unsafe, not what's in the documentation.

6. Conclusions.

6.1 The London Building Acts system of control and its implementation by independent statutory District Surveyors is held up as a tried and successful model for the control of building work in London over the past 300 years, particularly in the more recent 100 years. (Paras 1.1 – 1.9 and 2.4)

6.2 Only one controlling body is needed. (Para 2.6)

6.3 The JCA needs to be comprised of only the BCA and the FA, be at County Level and operate both from central and local offices. The HSE should not be involved. (Paras 2.2 & 2.3)

6.4 AI's should not be employed by the JCA but their expertise should be available to owners, dutyholders, their advisers and contractors. (Paras 2.5)

6.5 Controlling Bodies must be properly staffed such that all their work can be accomplished using in-house staff for all matters other than the most exceptional or specialised. (Para 2.6)

6.6 Activities of Fire Risk Assessors need to be monitored by the Controlling Body. (Para 2.7)

6.7 There is no provision for any authority to regularly police whether 'The Responsible Person' is properly carrying out their duties. (Para 1.8)

6.8 A comprehensive qualifying examination in all aspects of building controls needs to be passed before a person can be appointed as Head of a Controlling Body. (Para 2.8)

6.9 The Controlling Body needs to be completely independent of all parties involved in the construction of a building; this especially includes Local Authorities. This is best achieved by the Head of the Controlling Body being a Statutory Officer. (Para 3.1 & 3.2)

6.10 Building work takes place on building sites, not in the design offices. A comprehensive regime of regular and frequent site inspection, by the Controlling Body, of building work as it is carried out is vital for the effectiveness of any controlling system and must be made a mandatory requirement of the Controlling Body. (Paras 4.1, 4.4, 4.6 & 4.7)

6.11 A comprehensive regime for the site inspection, by the Controlling Body, of all building work as it is carried out will engender public confidence in the future control system. (Para 4.4)

6.12 Regular and frequent unannounced site inspections by the Controlling Body are the only means of preventing/discovering errors occurring at site. (Item 4 especially Para 4.4)

6.13 The Report is highly paper oriented thereby promoting, as acceptable, an office-based control system. This is inappropriate – building work happens on building sites – controls need to happen there also. (Para 4.2 & 4.3)

6.14 What is actually meant by 'Oversight' needs defining. (Para 4.5)

Should there be any further information you need on any of these matters, please contact me.

Yours sincerely,



Tom Sammons MSc, CEng, MStructE, ARICS.

Formerly District Surveyor for the districts of Chelsea, Battersea, and Paddington in London and Head of Building Control for the London Borough of Camden.