

# Prescribing protection

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## Should the key criteria of fire safety guidance be formally regulated, asks Michael Morgan?

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In the long term it can be easier to do the right thing when you are told to do so, and this much may be evident in the [amendments](#) to [Building Regulation 7](#) .

After government consultation on combustible materials in external walls, regulation 7(2) now states: 'building work shall be carried out so that materials which become part of an external wall, or specified attachment, of a relevant building are of European Classification A2-s1, d0 or Class A1'. This has now been made a legal requirement for buildings more than 18m tall, under regulation 7(4).

Most professionals should know the difference between guidance and statutory requirements; Approved Documents clearly state, for instance, that 'there is no obligation to adopt any particular solution contained in an Approved Document if you prefer to meet the relevant requirement in some other way.' The problem is the subjectivity of what is appropriate, adequate or reasonable, to cite the terms used in those documents.

Conversely, section 7 of the [Building Act 1984](#) , which is often overlooked, implies that any deviation from Approved Documents will suggest liability if there has been a failure to comply with the Building Regulations. This sort of legal conflict needs addressing.

To illustrate the difference between guidance and regulation, consider higher-risk residential buildings: a combination of compartmentation, smoke control and suitable sprinkler installation can offer layers of safety, but if these are suggested in guidance rather than stipulated by regulation it is possible, in theory, to engineer some elements out.

Added to this, enforcement of some regulations can prove problematic. Look at [Building Regulation 27](#) on carbon dioxide emission calculations; this should be submitted by designers no later than the day before the work starts, but enforcing this is difficult to say the least.

More worryingly, in the past, there seemed to be a light touch with [Building Regulation 38](#) on fire safety information and the requirement that 'the person carrying out the work shall give fire safety information to the responsible person not later than the date of completion' for some types of building. This has to change.

At a fire-stopping seminar last year, I asked whether there should be more prescription in the sector, such as making sprinkler installation mandatory in certain instances. My feeling is that some prescription may be necessary, particularly in high-risk buildings where, if the main protective measures such as compartmentation were compromised, there could be a serious threat to life safety.

*Decision-makers should identify key criteria for fire safety and consider whether these should be made into regulation*

Some panel members believed further prescription would be excessive. However, someone who deals with specialist fire protection also stated that there should be a regulatory requirement ? in other words, prescription ? for third-party fire-stopping certification. Everyone has their own agenda, but I think decision-makers should identify key criteria for fire safety and consider whether these should be made into regulation. The balance will be difficult, but for me this is important in the light of the [Hackitt Review](#) .

Realistically, would anyone now attempt to design out sprinkler protection in a 30m-tall apartment building? This has effectively become a prescription, and turning this and similar practices into regulation could make it difficult to ignore key safety issues.

Hackitt told the Housing, Communities & Local Government Committee on 28 January this year that she believes the government has done the right thing in banning combustibles in external walls. She has also accepted that there may need to be more regulation in future, with an extended ban on combustible materials for instance.

However, she also stresses that the emphasis should be on cultural change among those who are responsible for fire safety. Rather than viewing holes in guidance or regulation as a way of complying with statutory requirements, such duty-holders should take a more accountable and holistic approach.

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## **Further information**

- Related competencies include: [Fire safety](#) , [Legal/regulatory compliance](#)
- This feature is taken from the RICS [Built environment journal](#) (June/July 2019)
- Related categories: [Fire and life safety](#)

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