# Housing, Communities & Local Government Committee Pre-legislative scrutiny of the Building Safety Bill

## Response from AXA UK

1. AXA UK (AXA) is part of the AXA Group, a worldwide leader in financial services, operating in 57 countries with over 160,000 employees and 108 million customers. AXA has over eight million customers in the UK and operates through specific operating companies – AXA Insurance and AXA PPP healthcare.

**Executive summary**

2. AXA welcomes the opportunity to provide our input into the Housing, Communities and Local Government Committee's call for evidence to inform their pre-legislative scrutiny of the Building Safety Bill. AXA has previously engaged with the Government and parliamentary stakeholders on issues related to building and fire safety.

3. As a leading property insurer, AXA is acutely aware of the significant costs associated with property damage, particularly damage resulting from fire. AXA firmly supports the intentions of Government to undertake much-needed building safety reforms.

4. To a large extent the legislation provides sufficiently robust construction industry oversight across the life cycle of buildings and greater clarity in the responsibilities of all dutyholders. However, AXA would urge the Government to reconsider the scope of the Bill. Fire does not discriminate on height and therefore, the focus the legislation places on the height of 18 metres is misguided. AXA would welcome expanding the scope of the Building Safety Bill to include other high-risk residential and non-residential buildings at any height, particularly for those buildings that accommodate vulnerable people such as hospitals, hospices and care homes.

**Questions**

**Question 1**
**How well does the Bill, as drafted, meet the Government's own policy intentions?**

5. AXA welcomes the publication of the Building Safety Bill as a promising first step in delivering the necessary reforms to improve the safety of the built environment. AXA has long called for robust building safety regulations and construction industry oversight across the entire life cycle of a building to protect occupants of all types of developments. Regulation that is effectively policed and enforced is the only long-term solution to the issues related to performance and safety across the UK's built environment, including the challenges seen in the market for Buildings Insurance and Construction Professional Indemnity Insurance.

6. AXA welcomes many aspects of the Bill and believes the legislation meets the Government's policy intentions to a large extent. In particular, AXA believes the formation of the Building Safety Regulator, the increased clarity for the responsibilities of dutyholders and the

enforcement regime are all positive elements towards ensuring that building regulations are up to date and fit for purpose. The Bill is also an effective tool to ensure that residents are not only aware of their responsibilities in the occupation phase of a building's lifecycle but have sufficient powers to guarantee that their voices are heard.

7. Government defined its policy intentions in its Impact Assessment as "to reform the building safety system to improve building safety and performance for all buildings and to establish a more stringent regime to strengthen the management of fire and structural safety risks for new and existing buildings in scope". While the draft Bill goes some way in realising that ambition, to use residential buildings of 18 metres or more in height or more than six storeys (whichever is reached first) as an intended definition of buildings within scope does not provide sufficient reassurance that building safety will improve for all buildings across the built environment. Fire does not discriminate by height and therefore, AXA would urge the Government to reconsider their definition of high-risk buildings to meet their own policy intentions.

**Question 2**
**Does the draft Bill establish an appropriate scope for the new regulatory system?**

8. AXA believes the scope of the new regulatory system needs to be clearly defined. The primary reason for this is due to the lack of clarity on the definition of a 'high-risk' building within the Bill, which places significant uncertainty on how the legislation will work in practice. Clause 19 in the Bill refers to the 'prescribed description' in regulations yet to be determined, however, it can be denoted by paragraph 228 in the Explanatory Notes that there will be both a height and use condition in determining the definition of a 'high-risk' building. A higher-risk building will be one in which the floor surface of the building's top storey is 18 metres or more above ground level or where the building contains more than six storeys. It will also be a building that has two or more dwellings, two or more rooms for residential purposes or student accommodation. The Explanatory Notes also explicitly states that care homes, secure residential institutions and temporary accommodation including hospitals and hospices will be excluded from the defined scope.

9. In determining the definition of a 'high-risk' building, AXA believes the legislation places far too much focus on height. Fire does not discriminate against the height or the use type of a building. 18 metres is an arbitrary height and is not consistent with regulatory measures already announced by Government to tighten measures in high-rise blocks of flats, such as mandating sprinklers in all new high-rise blocks of flats over 11 metres tall. If there is an argument for mandatory sprinklers in a high-rise block of flats of 12 metres tall, then a similar argument could be made for that building to fall within scope of the Bill. In recent years, there has been numerous examples of buildings that would be outside of scope of the Bill that have presented significant high-risks to the occupiers such as the Worcester Park Fire and the Crewe Care Home Fire.

10. AXA believes the Government should also consider the growth in the use of Modern Methods of Construction (MMC) (as defined by Government) and the long-term resilience to structural

damage that these types of buildings present. Whilst traditional methods of construction are well understood, and repair is able to be completed by a wide range of contractors, forms of MMC have been evidenced to have clear risk and vulnerability to fire and challenges to reinstate or repair. Given the potential safety risks attached to MMC, there is an argument for ensuring that the type of regulation and enforcement contained within the Building Safety Bill is extended to include MMC buildings of any height.

11. AXA would strongly urge the Government to consider expanding the scope of the Building Safety Bill to include other high-risk residential and non-residential buildings at any height, particularly for those buildings that accommodate vulnerable people such as hospitals, hospices and care homes and those buildings that use MMC.

12. In addition, Covid-19 could have significant impacts for how buildings are used going forwards. If office spaces in city centres becomes of less value to businesses, there could be a rapid increase in multi-purpose high-rise buildings with both residential and office spaces. Mixed-use buildings will be a challenge for the legislation to overcome. Not only are there potential building safety risks the transition could pose, there are areas of the regulation which may need further tightening or additional guidance when applied to mixed-use buildings. As outlined in the Government's Impact Assessment (paragraph 62), there could be more than one Accountable Person in mixed-use buildings. The Accountable Person under the legislation will be required to 'cooperate' with a 'responsible person' under the Fire Safety Order 2005 operating within the same building. As outlined by Susan Bright, Professor of Land Law at New College Oxford, the complexities of the regulatory regimes may cause problems for dutyholders in sufficiently fulfilling their responsibilities and may lead to grey areas for the Fire Service and local authorities in relation to enforcing the regulation. AXA welcomes the Government's commitment to consult on how the regimes will interact, but it should be emphasised that the application of the regulatory framework to mixed-use and complex buildings will need to be monitored closely.

**Question 3**
**Will the Bill provide for a robust – and realistic – system of accountability for those responsible for building safety? Are the sanctions on those who do not meet their responsibilities strong enough?**

13. Long-term change in the construction sector is only possible if driven by stronger regulation which is effectively policed and enforced. AXA believes the Bill does provide for a robust system of accountability for those responsible for building safety and reinforces the need to take building regulations seriously.

14. An area that is not addressed by the legislation is how the new regulatory system will manage historical regulatory building safety failures and the costs of resolving defects. Protracted arguments as to who is responsible puts residents/occupiers at risk for longer periods and affects access to affordable insurance or willingness of insurers to participate. To resolve issues related to existing properties there is a problem of liability that Government will have to contend with. The Bill itself does not address the liability of those responsible for defects.

These outstanding issues will hold back the Bill from making the significant improvements to building safety required in the short to medium-term.

15. However, AXA considers it could be appropriate for HM Government to extend the duties under the existing Construction (Design and Management) regulations 2015 to further expand accountability for defects, whether these be in design stages or construction stages. This would allow the regulator (HSE) to address latent defect issues through existing regulatory powers.

**Question 4**
**Will the Bill provide strong mechanisms to ensure residents are listened to when they have concerns about their building's safety?**

16. AXA has consistently outlined the need to ensure the regulatory system is supported by straight-forward, clear and inclusive communication to all residents of buildings within scope of the Bill. This includes the existence of multiple channels for residents to escalate concerns, redress grievances and be informed of their own responsibilities.

17. There is often evidence in high-rise multi-occupancy buildings that information is not passed freely between the freeholder and leaseholders which leaves residents unheard and unseen. AXA believes the Bill does well at addressing these concerns through measures such as ensuring the regulator works with a residents' panel to provide information and guidance on risk management and safety strategy and providing residents the power to request 'prescribed information'.

18. Moreover, AXA welcomes the inclusion of duties for residents to make clear their responsibilities to maintain and repair all relevant items which can become significant fire safety risks. However, as outlined by Susan Bright, Professor of Land Law at New College, Oxford, the Government could provide greater clarity in the legislation by clearly defining what constitutes a "relevant safety item" and "common parts", this would prevent disputes over whether a resident's duties would extend to items that often sit in grey areas such as flat doors and windows.

19. Ultimately, AXA is confident that the Bill provides a sufficient balance between clarity on residents' duties, while empowering residents to guarantee that their voices are heard.

**Question 6**
**Does the Bill improve the product testing regime in a way that will command the full confidence of the sector?**

20. AXA welcomes the inclusion of the powers listed under Schedule 8 that will ensure all construction products marketed in the UK fall under a clear regulatory regime where products can be monitored, verified, recalled and marketed transparently. This provision will guarantee that unfit products will not be used on building schemes.

21. However, there is little information on the product testing regime that will be required to determine the risk status of construction products. Testing is incredibly important to ensure construction products meet the appropriate standards. AXA would welcome further clarity on product testing in the regulatory framework and a commitment from Government to improve product testing across the built environment. Loopholes in testing may prevent the regulatory changes from being effective.

22. In addition, AXA would urge Government to include a provision in the legislation for a central open database that lists the status of all products within scope of the testing regime. This would help to meet Dame Judith Hackitt's recommendation of a product testing regime with clearer labelling and product traceability.

**Question 7**
**Is it right that the new Building Safety Regulator be established under the Health and Safety Executive, and how should it be funded?**

23. AXA believes the Building Safety Regulator being contained within the Health and Safety Executive (HSE) is sensible, primarily because HSE has strong competency at developing regulation and monitoring and enforcing potential breaches of legislation. However, building and fire safety regulation was not previously within HSE's remit. Given the wide-ranging nature of the regulation being brought in through the Building Safety Bill, which could apply to approximately 13,000 buildings (Impact Assessment paragraph 28), the Government must ensure that HSE is able to bring the necessary expertise into their organisation.

24. AXA understands that the Government has agreed to provide HSE with an extra £16.4 million this year to recruit staff and establish the regulator. However, in light of the over 50 per cent real terms reduction in the regulator's budget between 2010 and 2017 and the raft of additional specialist responsibilities the body will be taking on, Government must consider a level of ringfenced funding throughout the next multi-year spending period. Ringfencing will ensure HSE can deliver the much needed regulatory and enforcement changes.

25. A similar argument applies for local enforcement, additional responsibilities for owners and managers of high-rise buildings must be supported by enforcement regimes. Local enforcement regimes will be a necessary component of the building safety landscape and therefore, Government should consider the funding local authorities require to deliver on their responsibilities. The success of the Building Safety Programme to a large extent impinges on sufficient resources being available for the HSE and local authorities from the outset.

**Question 8**

**Does the Bill present an opportunity to address other building safety issues, such as requirements for sprinkler systems?**

26. As outlined elsewhere in this consultation response, the draft Bill is welcome and much-needed legislation but could go further in some areas. On sprinkler systems in particular, AXA would strongly align with the position of the Association of British Insurers (ABI). As per our request for the Bill to be extended in scope to cover buildings below 18 metres in height, AXA would also encourage the Government to extend the requirement for mandatory sprinkler installation in newly built, high-risk buildings such as warehouses, care homes and schools, no matter what height the building is. It is of critical importance that the installation of sprinkler systems in UK buildings meets certain specified requirements. The ABI commissioned the Fire Protection Association to research suitable standards which resulted in the publication of a publicly available technical guidance note which AXA would urge Government to consider as the regulatory framework evolves.

If you need to get in touch regarding the information in this submission, please get in touch with AXA's Public Affairs Team at ukpublicaffairs@axa-uk.co.uk.