



RIAS | The Royal Incorporation of Architects in Scotland

Aonachadh Rìoghail nan Ailtire ann an Alba

James Doran MSP
Convenor
Education and Skills Committee
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By email
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Dear Mr Doran

School Buildings Across Scotland- Response from the Royal Incorporation of Architects in Scotland

The Royal Incorporation of Architects in Scotland (RIAS) welcomes the request from the Education and Skills Committee to provide comments on the issues around safety of school buildings, remediating these issues, and any lessons that should be learnt for the future.

The Incorporation is also participating in the pan construction industry process, instigated by the Minister for Planning Kevin Stewart MSP which is seeking responses by September. The material below is a considered response from the Incorporation following extensive consultation amongst members with specific expertise in these issues. It will be developed and refined for our submission to Mr Stewart's post Cole Inquiry process.

The Incorporation responded to the Cole Inquiry highlighting a number of key issues identified by Professor Cole's report. We made recommendations that included a revised proposal for the Building Standards verification system currently in place.

Our members are central to the design and construction process. Therefore any failure in statutory processes can have a considerable impact on their ability to deliver for their clients; and ultimately to their reputation. The Incorporation believe there is an alternative solution which is explained in detail below.

The Case

The RIAS believes that the Cole Inquiry and the wider investigation into nearly 100 schools across Scotland constructed by Design and Build contracts, all with similar identified structural defects; is evidence of a lack of full professional involvement in the build process and a systemic failure of the regulatory framework of Building Control.

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The report suggests that the defects were caused by the absence of suitable inspections and ineffective site supervision, which we believe were compounded by procedures for self-authorised completion certification which rely on trust, without requiring proper proof of compliance.

The need for Legislative Change

The seriousness and scale of the problem, placing public safety at risk, justifies the need for structural change through legislation in the system of building control; rather than examining forms of public procurement and/ or Design & Build contract management which inevitably may change in future.

The Verifier Role

The main issues concern how verification operates and how inspections to ensure construction compliance with Standards are determined prior to completion. Reasonable inquiry is required in practice, not theory.

The RIAS preference is for Local Authorities to be the verifier, rather than private approved inspectors, because this provides the role subject to the Statutory Duty of Care for Public Health and Safety. This is an issue that can become confused when attempts are made to transfer risk onto private parties e.g. approved inspectors and Design & Build contractors. This would also place responsibility firmly in the hands of those the public elect, and properly trust through due democratic process.

It is also clear that local authority verifiers are currently struggling to provide acceptable service due to a range of issues including in some cases, under resourcing and the lack of availability of suitably experienced manpower. It is simply not realistic to propose an increased burden of extra inspections on the verifier, something which the circumstances might indicate is needed.

The Alternative

There is an alternative solution which is the core of the RIAS proposal:

- a) to relieve pressure on the verifiers by removing the duty to inspect
- b) to introduce suitable private inspection regimes regardless of the form of procurement i.e. by creating an integrated regulatory system of building control managed by public authority verifiers complemented with mandatory private inspection regimes.

The present system would be retained to serve householders undertaking domestic works. All other applicants (domestic and non-domestic) would be served by the new system of mandatory private inspections approved by the verifier when granting a warrant (no inspections by verifiers).

Quality Matters

The Cole Inquiry highlighted the need for much better Quality Assurance management over workmanship on site. In a Design & Build contract the triangle of priority between cost, time and quality and can favour cost and time at the expense of quality. This increases risks against safety through poor quality control of workmanship.

The general public and clients may not understand or appreciate that the architect's duty of care is primarily to achieve and protect quality as a function of Technical Handbook Sections 1-7 i.e. structures, fire, environment, safety, noise, energy and sustainability in building regulations.

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Public Safety and Trust

The mandatory use of appropriately qualified construction professionals as independent consultants undertaking full design and inspection services on behalf of applicants for warrants is the best protection of public safety to regain trust in the system.

The Task

To prepare revised legislation for Building Standards for approval of Ministers that provides a more robust process.

In addition to the above there are a number of related issues to consider and resolve:

- 1) clarifying the law surrounding the transfer of risk of the Statutory Duty of Care for public safety onto private contractors,
- 2) ensuring there is a clarity on the role of the HSE/CDM regulation connection with the Quality of construction / structural safety, as the latter carries a criminal offence for serious breaches which place users of a building at risk,
- 3) promoting certifiers of design schemes by Building Standards Division has introduced unnecessary confusion into the regulatory process because there is no obligation to inspect certified works on site and verifiers are directed not to interfere in this aspect under 'reasonable inquiry',

Placing trust in self-certified completion without some form of independent proof of performance is unreasonable and unacceptable. The onus for proof of construction compliance with standards should be firmly placed on the shoulders of applicants and their agents.

I hope the above is helpful to the Committee in their consideration of the issues around the future delivery of school buildings. The incorporation would of course, be happy to provide further evidence and details as necessary.

Kind Regards
Neil Baxter

Secretary and Treasurer
Royal Incorporation of Architects in Scotland