

Building Safety Act

Policy and Procedure

Introduction

The Building Safety Act 2022 makes ground-breaking reforms to give residents and homeowners more rights, powers, and protections – so homes across the country are safer.

It delivers far-reaching protections for qualifying leaseholders from the costs associated with remediating historical building safety defects, and an ambitious toolkit of measures that will allow those responsible for building safety defects to be held to account.

It overhauls existing regulations, creating lasting change and makes clear how residential buildings should be constructed, maintained, and made safe.

The Act creates three new bodies to provide effective oversight of the new regime: the Building Safety Regulator, the National Regulator of Construction Products, and the New Homes Ombudsman.

Together these changes mean owners will manage their buildings better, and the home-building industry has the clear, proportionate framework it needs to deliver more, and better, high-quality homes.

Many of the detailed provisions in the Act are implemented over subsequent years through a programme of secondary legislation.

The Act has 6 Parts, and contains provisions intended to secure the safety of people in or about buildings and to improve the standard of buildings.

- Part 1 is introductory.
- Part 2 contains provision about the building safety regulator (the HSE) and its functions in relation to buildings in England.
- Part 3 amends the Building Act 1984 to:
 - provide that the regulator is the building control authority in relation to higher-risk buildings in England.
 - require the regulator (for England) and the Welsh Ministers (for Wales) to establish and maintain registers of building control approvers and building inspectors.
- Part 4 is about occupied higher-risk buildings in England, and imposes duties on accountable persons.
- Part 5 contains further provisions, including:
 - provisions about remediation and redress.
 - provision requiring a new homes ombudsman scheme to be established.
 - powers to make provision about construction products.
 - further provision about fire safety.
 - provision about the regulation of architects.
 - provision about housing complaints.
- Part 6 contains general provisions.

A higher-risk building (HRB) is a building that has at least (meeting both requirements):

- 7 storeys or is at least 18 metres high.
- 2 residential units or is a hospital or a care home.

Scope and Purpose

This document extends on existing organisation/departmental policy and procedures for compliance with linked legislation including:

- The Construction (Design and Management) Regulations 2015 (CDM)
- The Regulatory Reform (Fire Safety) Order 2005

These should be referenced in conjunction with this document.

The purpose of this document is to communicate our arrangements for complying with the new legislative requirements, and define the roles and responsibilities of key duty holders.

Context and Applicability

Our organisation does not hold a direct responsibility for any HRB as the 'Accountable Person' (building owner, freeholder, or management company), having an ongoing duty to identify, mitigate, and manage building safety risks. As such, we would also not be acting as a 'Client'.

For our organisation, the roles we may fulfil are as:

- Principal Contractor - managing a construction project within an existing HRB.
- Contractor - working on a project under the control of a PC, undertaking works comprising:
 - Installation/upgrade/modernisation/refurbishment.
 - Planned preventative and reactive maintenance.
- Designer - limited in relation to our specific trade(s), inputting to the Client appointed Principal Designer as applicable.

Competence and Organisation Capability

Any individual or organisation that carries out work beyond their competence level or organisational capability can face enforcement action. Individuals must be able to demonstrate they are competent to carry out their duties and undertake the work. This means having the necessary skills, knowledge, experience and behaviours.

Organisations must be able to demonstrate they have the organisational capability to carry out their duties and undertake the work. This means having policies, procedures, systems and resources in place to make sure those employed by the organisation comply with all relevant regulations.

Our established management system will be maintained by the leadership and compliance team, and is subject to ongoing review and continual improvement. External advisory support, and the consultation and participation of workers will be undertaken, to ensure comprehensive and effective processes are implemented.

Our management system documentation and processes will be subject to internal/external audit at least annually, and we will actively monitor site activities for compliance, with working/non-working competent site supervisors, and regular site inspections (internal/external), as necessary for the scale and duration of the project.

At the proposal stage by the Business Manager, and again during mobilisation by the Project Manager, we are to ensure sufficient time and resources have been accounted for to complete the job, to a compliant and safe standard.

The Project Manager is to ensure that individuals must be able to:

- Co-operate with others working on the project.
- Refuse to carry out work that is beyond their competence.
- Make sure their work complies with relevant requirements, and refuse to carry out non-compliant work.
- Ask for assistance from others when necessary.

A trainee without the necessary competence cannot carry out design work or building work unsupervised. Whoever appoints the trainee must make sure the trainee has adequate supervision to carry out the work.

The Project Manager is designated as the competent individual from within our organisation, with ultimate responsibility to carry out the functions of the role and implement requirements of this policy.

Building Control

The appointed Project Manager will liaise with the Client, as applicable, to support their duty in the application for building control approval, which will require:

- Drawings and plans.
- A competence declaration.
- A construction control plan.
- A change control plan.
- A mandatory occurrence reporting plan.

Golden Thread

The appointed Project Manager will liaise with the Client, as applicable, to support the compilation of the record of information about the building (also known as the golden thread).

This will typically comprise the handover of the CDM H&S File information, but when working within a HRB additional considerations may be applicable dependant on the project.

Serious Sanctions

Prior to commencement, the Project Manager is to ensure that the Client or Principal Contractor has requested details of any defined 'serious sanctions' issued to our organisation. The Project Manager must ensure accurate information is provided, by verifying as necessary with senior management.

Our subcontractors, where applicable, will be asked during completion of the prequalification questionnaire (PQQ) assessment, to be on our approved list of suppliers, for any regulator action within the last 5 years. The process for managing sub-subcontractors will also be reviewed as part of this.

Our ongoing contractual purchase terms will require declaration of any subsequent serious sanctions received. We will undertake regular review of our supply chain to monitor this requirement as standard practice, with a risk-based approach to depth and frequency.

The Project manager is to review all appointed contractors at mobilisation, with a specific focus on this requirement, when engaging a supply chain on a HRB project.

Any serious sanctions under relevant legislation within the past 5 years, will suspend the appointment of that contractor, unless all parties in the chain are in acceptance.

Designers' Duties

When acting as Designer, the appointed Project Manager is to ensure that we:

- Do not start any design work unless satisfied the client is aware of what their legal duties are.
- Take all reasonable steps to make sure the design work carried out by us, or other Designers we manage, is planned, managed and monitored.
- Provide sufficient information about the design, construction and maintenance of the building to the Client and other Designers and Contractors.
- Provide advice, when requested, to the Principal Designer or Client on whether any design work we are doing relates to higher-risk building work.

During the design phase, we must be satisfied that a design, if built, complies with all relevant requirements. This means we must:

- Check that we, or other designers we manage, have taken all reasonable steps to make sure a design, if built, complies with all relevant requirements.
- Co-operate with the Client, other Designers, Contractors, the Principal Designer, and Principal Contractor.

If we are carrying out only part of the project's design work, we must consider how our design work interacts with other design work. We must tell the Principal Designer if we are concerned that:

- Our design work makes other design work non-compliant.
- Other design work makes our design work non-compliant.

If we appoint other Designers to work on the project, we must make sure they have the required competence to carry out the work.

Contractors' Duties

When acting as Contractor, the appointed Project Manager is to ensure that we:

- Do not start any building work unless we are satisfied the Client understands what their legal duties are.
- Take all reasonable steps to make sure the building work carried out by us, or other Contractors we manage, is planned, managed and monitored.
- Co-operate with the Client, Designers and Contractors (including the Principal Designer and Principal Contractor) to make sure the building work complies with all relevant requirements.
- Make sure building work that we and others we manage carry out complies with all relevant requirements.
- Provide each worker we are responsible for with appropriate supervision, instructions and information.
- Provide sufficient information about the building work to assist the client, other Contractors and Designers to comply with relevant requirements.
- Provide advice, when requested, to the Principal Contractor or Client on whether any work is higher-risk building work.

If we are carrying out only part of the project's building work, we must consider how our building work interacts with other building work. We must tell the Principal Contractor if we are concerned that:

- Our building work makes other building work non-compliant.
- Other building work makes our building work non-compliant.

If we appoint other Contractors to work on the project, we must make sure they have the required competence to carry out the work.

Alterations or Deviations

The Project Manager is to ensure that all our own work, and that of our subcontractors conforms to the original approved specification, or if alterations have been required, that the correct escalation process has been following, triggering:

- Risk assessment and method statement review.
- Design compliance review.
- Sufficient resource allocation.
- Budget approval.
- Information file update (golden thread).

Principal Contractors' Duties

When acting as Principal Contractor, the appointed Project Manager is to ensure that we plan, manage, monitor and co-ordinate matters related to the building work. This means we must:

- Make sure building work done by all Contractors is co-ordinated so that it complies with all relevant requirements.
- Assess building work to make sure it complies with relevant building Regulations.
- Never accept non-compliant building work.
- Work with the Principal Designer and share information about planning, managing, monitoring and co-ordinating the design and building work.
- Assist the client in providing information to others, if requested.

We must take reasonable steps to make sure anyone working on the building work co-operates, communicates and co-ordinates their work with:

- The Client.
- The Principal Designer.
- Other Contractors and Designers.

If there is a Principal Designer working on the project, we must consider any comments they make in relation to compliance with building regulations.

As the Principal Contractor we can delegate certain functions to others, but that does not make them the Principal Contractor. The legal responsibilities remain with us.

If we stop being the Principal Contractor, we must give the Client a document that explains the arrangements we put in place to fulfil our duties. We must do this no later than 28 days after our appointment as Principal Contractor ends.

If we are appointed to replace a previous Principal Contractor, we must review any arrangements they put in place to meet their legal duties.

If the project involves higher-risk building work, we must:

- Establish and operate a mandatory occurrence reporting system.
- Submit mandatory occurrence notices and reports to BSR.
- Store the required information about the building (also known as the golden thread), and provide it to the Client and the Principal Designer as necessary.
- Keep and share with the client the steps we have taken to make sure those we appoint to do design work meet the competence requirements.

Managing Construction Processes and Production

Principal Contractors should be able to co-ordinate and monitor contractors, suppliers, and service providers, by:

- Identification, assessment, inspection, and testing of safety critical materials components and building systems.
- Ensuring any time or budgetary pressures do not impact building safety.

The Project Manager is to ensure that at all stages these requirements are managed.

Liaison with Residents

As applicable to the project, we are to ensure that sufficient arrangements have been put into place to communicate with others impacted by our works, and any temporary arrangements that may be put in place. This may be undertaken directly by the Project Manager/Site Supervisor or through an appointed Resident Liaison Officer (RLO). Suitable measures will include as necessary:

- Verbal and written communications.
- Consideration of language and cultural differences.
- Consideration of those with enhanced needs and safeguarding requirements.
- Ongoing updates.
- Query/Complaint/Emergency contact details.

Mandatory Occurrence Reporting (MOR) System

When acting as Principal Contractor we must establish and operate an MOR system before construction or building work begins. This may be the same system as the Principal Designer's.

The MOR system must enable prompt reporting by Designers and Contractors working on the project, and others who periodically visit the work site.

The system must let people report building safety incidents and risks that have caused, or if not remedied are likely to cause:

- The death of a significant number of people.
- Serious injury to a significant number of people.

Building safety incidents and risks involve at least one of the following:

- Structural failure of the building.
- The spread of fire or smoke in the building.

For design work, a building safety risk is an aspect of the design related to structural integrity or fire risk, which if built could cause death or serious injury to a significant number of people.

The Project Manager is responsible for reporting incidents or risks that meet these criteria to the Building Safety Regulator (BSR) as a safety occurrence. They must do this by submitting a mandatory occurrence:

- Notice - as soon as we can.
- Report - within 10 days of the safety occurrence being identified.

Guidance and instructions are available on this link:

<https://www.gov.uk/guidance/submitting-mandatory-occurrence-notices-and-reports>

We must share information about how the system works with:

- Designers, Contractors and others working on the project, before they begin any work.
- Anyone who enters the work site, as soon as possible.
- The BSR, when requested.

The defined MOR will be documented within the Construction Phase Plan (CPP) and communicated on the site noticeboard, and during site induction to all workers covering:

- What they need to report.
- How to make a report.
- How and when the report will be dealt with.
- When they should expect a response about a report they have made.
- How we'll collect and store information in line with General Data Protection Regulations (GDPR).
- Examples of what people should report on our mandatory occurrence reporting system.



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