RISE | Retrofit information, support & expertise

Higher-Risk Buildings & the Building Regulations

Supply chain advice pack

May 2026

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Department for Energy Security & Net Zero

Introduction

The Building Safety Act 2022 (the Act) is one of the most significant pieces of legislation that has introduced change in the construction industry following the tragedy at Grenfell Tower. This advice note seeks to give guidance and thought to those planning or carrying out retrofit works to Higher-Risk Buildings.

It has a strong focus on ensuring all forms of building work comply with the relevant Building Regulations, with specific measures for carrying out any building work to buildings defined as 'Higher-Risk'. Not only is there a focus on compliance with Building Regulations, but the Building Safety Act makes competence a legal requirement, and places strict duties on building owners, designers and contractors.

Whilst the Act has brought a positive focus on the safety of people in and around buildings, it has created significant pressures on ~~t~~ the industry around project timescales and costs.

Applicable Regulations

The Act amends the Building Act 1984, introduces further legislation, and new powers prescribing requirements on building owners, designers and contractors.

Alongside the Act there are 31-pieces of secondary legislation. The full list can be found via the UK Government Website here.

Secondary legislation should not be read in isolation. However, those listed below are key secondary legislation to be aware of and understand:

Figure 1 – Secondary Legislation

[1] [2] – Regulation 11D, [3] – Section 35, [4] – Chapter 2, [5] – Section 11E, [6] – Competent Person Scheme List, [7] – Schedule 2, [8] – Section 38, [9] – Section 39, [10] - Guidance: fire statement, [11] – Section 30, [12] – Section 31

Dutyholders and Responsibilities

When planning to undertake work to Higher-Risk Buildings, there are five key dutyholders, all of which play a key part, and have prescribed duties and responsibilities.

Figure 2 - Dutyholders

The newest dutyholder is the "Principal Designer". But how is this new? – this role is already used under the CDM Regulations 2015, but has very different duties in respect of Building Regulations. Unfortunately, this confusion led to many appointing CDM Principal Designers to fulfill the responsibilities required under Part 2A of the Building Regulations 2010.

This is a key issue as those who provide this role as CDM-experts may not meet the required level of competence necessary for fulfill such duties regarding Building Regulations.

To differentiate between the roles, a Principal Designer for the purposes of Building Regulations is referred to by the industry as a Building Regulations Principal Designer, or (BR) Principal Designer. The Principal Designer for the purposes of CDM Regulations 2015 is referred to as a CDM Principal Designer, or (CDM) Principal Designer.

The (BR) Principal Designer has the following duties:

- To "plan, manage and monitor" the design work during the design phase
- Co-ordinate matters relating to designer work
- Ensure they, and other designers, co-operate, communicate and co-ordinate their work with client and Principal Contractor
- Liaise with the Principal Contractor and share information relevant to the building work
- Assist the client in providing information to other designers and contractors.

When is a (BR) Principal Designer required?

When there is **more than one Contractor**, the client must appoint – in writing – a (BR) Principal Designer[1].

In most cases, it is likely that this requirement will come into effect. A good example of this is for a typical project involving cyclical maintenance such as external decorations. Whilst the Principal Contractor may be able to facilitate the

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decorating work, they may not have in-house employees to carry out other trades such as scaffolding, concrete repairs or timber-care repairs, leading to the appointment of a Sub-Contractor. In this example, the requirement for a (BR) Principal Designer must be implemented.

Who can act as the (BR) Principal Designer?

The client must "make suitable arrangements for planning, managing and monitoring a project (including allocation of sufficient time and other resources)". In most cases, this will likely mean the appointment of a specialists such as an Architect, Surveyor or other such Designer who has the necessary competence to deliver the role.

Where a client fails to appoint a (BR) Principal Designer, the client will automatically assume the role[2].

Can the Principal Contractor fulfil the role of a (BR) Principal Designer?

In short, yes. The Principal Contractor can also fulfil the role of a (BR) Principal Designer. However, the Principal Contractor must ensure that they assess their own competence and demonstrate this to the client.

Over the last year, we have seen Principal Contractor's take on the dutyholder role of a (BR) Principal Designer, but delegate the responsibilities and activities to a third-party. This is acceptable, but depending on the contractual arrangements, if the Principal Contractor has also taken on the role of the (BR) Principal Designer, they assume liability for the role, and confirm competence of any third-party.

Competence – a legal duty

Competence has been mentioned earlier in this advice note – competence isn't just a choice; it's now a legal requirement. But what is 'competent'?

In law, it's now defined as the "skills, knowledge, experience, and behaviours,"[3] (SKEB) and mandates that all individuals engaged in design, construction, refurbishment, and maintenance work must demonstrate competence in their respective roles.

The Principal Contractor, (BR) Principal Designer and other Designers must meet the requirements set out in Chapter 2 of the Building Regulations 2010[4].

How should competency be assessed?

Whilst the Act stipulates competence as a requirement for those involved in carrying out building work, it doesn't provide a prescriptive method of assessing competence.

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To help individuals assess competence, there is guidance available including;

Figure 3 – British Standard and PAS Guidance for Assessing Competence

Those demonstrating their competence must provide appropriate evidence so that clients can demonstrate they have carried out their duties. This may be in the form of some of the following examples:

- Qualifications
- Professional memberships
- Experience
- Behaviours

Once competency has been assessed, the client must provide a **Competence Declaration**[5].

Serious Sanctions

As part of the competence checks, the Principal Contractor, and (BR) Principal Designer's should confirm, in writing, that no "serious sanction has occurred, in relation to them, within 5 years ending on the date of the appointment."[5]

Identifying 'building work'

When seeking approval from the Building Safety Regulator for any **'building work'**, you must **consider the height of the building, and its use** which will determine whether an application to Building Control, or the Building Safety Regulator is required. A full definition of 'building work' can be found here.

Once "building work" has been defined, it must then be determined as to whether it is classified as **Category A, or Category B work**. The definition of these categories can be found here. These categories should not be confused with commercial fit-out work.

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In summary, **Category A** is work that has potential to have an impact on the safety and functionality of a building. It includes:

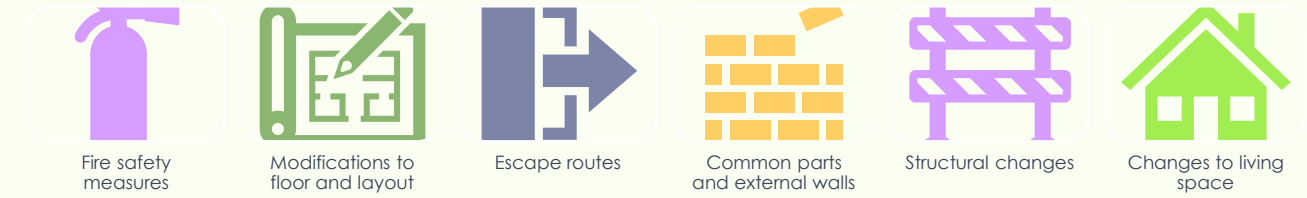

Figure 4 – Examples of Category A work

Category B work is then seen as work that doesn't significantly impact fire safety, structural, or escape routes of the building

Exemptions

There are limited exemptions for 'building work' where an application to the Building Safety Regulator is not required. The exemptions include; scheme work, exempt work and emergency repairs. These are detailed more below.

Scheme Work

Scheme Work is work which is covered by self-certification and third-party certification by those on the Competent Persons Scheme[6].

Careful consideration should be made before proceeding with any Scheme Work using those on the Competent Person Scheme, as not all schemes permit self-certified work on Higher-Risk Buildings. As such, individual Competent Person Scheme bodies should be contacted to confirm that they are able to certify works on such buildings.

Examples of scheme work can include the installation, as a replacement, of a window, rooflight, roof window or door in an existing dwelling. A full list can be found here.

Exempt Work

Exempt Work[7] has a very defined list, and ultimately is somewhat limited. Examples of such work includes:

- Replacing an external door (where the internal face is not more than 50% glazed)
- Replacing a sanitary convenience with one that uses no more water than the one it replaced
- Replacing parts, or adding output or control devices to an existing cold water supply

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- Providing a self-contained fixed building service (not a lighting system) where:
    - It is not a combustion appliance
    - Associated electrical work which doesn't consist of installing a new circuit, replacing a consumer unit or addition/alteration of existing circuits
    - Testing and adjustment is not possible or would affect energy efficiency

Emergency Repairs

Another exception includes emergencies. An **"Emergency repair"** means a "repair to a building which is necessary to be carried out as a matter of urgency due to a risk to health and safety, or welfare of persons in or about the building."

This procedure must only be used if the work consists only of emergency repairs, and when it's not practicable to wait the statutory approval period for an application to the Regulator. Where Emergency Repairs have been carried out, you must apply for a Regularisation Certificate once the works have been completed. Further guidance can be found here.

As part of the regularisation application, the Building Safety Regulator may request further information, and/or any opening up or inspections which are considered as reasonable. This will include **'Fire Safety Information'**[8][9] , and should be provided to the Building Safety Regulator no later than 30 days after receiving the relevant information.

Gateways 1, 2 and 3

The Building Safety Act 2022 introduced a new Building Control body specifically as the authority for overseeing 'building work' to Higher-Risk Buildings. This body is known as **the Building Safety Regulator**. The Act introduced three "hold-stop" points, also known as "Gateways" across the industry. These are:

Figure 5 – Gateways 1, 2 and 3

Gateway 1 – Planning Permission

Gateway 1 is the first hard-stop, and applies to any work requiring planning permission. Fundamentally, the process for obtaining planning permission has not

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changed. However, the Building Safety Regulator now becomes a statutory consultee alongside the local fire services.

In addition to documents already required by planning authorities, you must also provide a **Fire Statement**[10] setting out how the proposed works consider fire safety within the design. The Fire Statement must be prepared by a qualified individual with appropriate experience, or a Chartered Fire Engineer.

You are not able to proceed to Gateway 2 until Gateway 1 has been approved.

Gateway 2 – Building Safety Regulator Application

Gateway 2 is the Building Control application stage. The main difference is that the Building Safety Regulator reviews your application as opposed to your local building control authority. The regulator requires specific documentation as part of the application. Prior to applying for "Gateway 2" approval, the client must have:

- Appointed the Principal Contractor
- Appointed the (BR) Principal Designer and any other Designers
- Obtained demonstration of competence
- Demonstrated checks for any serious sanctions
- Provided sufficient time and resource for overseeing the project
- Formed a full technical design

Prior to applying, you will be required to prepare appropriate documents which demonstrate how the proposed work will meet relevant regulations. The documents you are required to submit shall include:

Figure 6 – Required documents for an application

Gateway 2 – Application Timeline

Depending on whether your application relates to an existing building, or a new building, the application timeline to receive a decision will vary. The Building Safety Regulator aims to provide a decision within the following timescales:

- New build – 12 Weeks

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- Existing build – 8 Weeks

However, those who have made applications already, or have seen the statistics, will know that the actual timeline is much greater than the targets set. In some cases, applications for work to existing builds have taken over a year. It is noted that in recent months, the actual timings are reducing with some applications being turn around within 4 to 6 months.

Gateway 2 – Changes Post-Application

Once an application has been made , and approval received, the applicant must be very conscious not to make changes. The purpose of the regulator is to avoid building work deviating from what was approved in the first instance.

The Change Control Plan will set out how prescriptive changes, categorised as **Major, Notifiable or Recordable changes**, are made. To help you categorise changes, guidance can be found here.

Figure 7 – Changes during construction

Any changes must be recorded within the Change Control Log and followed in accordance with your Change Control Plan which supplements the principles of the Golden Thread.

When changes are applied for, the Building Safety Regulator has **28 days** to grant the variation[11], or within such longer period if agreed with the individual managing the application.

Gateway 3 – Building Safety Regulator Approval

The third and final hold point is 'Gateway 3' which is your approval stage to submit an application to the Building Safety Regulator to seek approval and obtain your Completion Certificate. The Building Safety Regulator must be satisfied it can determine that the as-built building complies with Building Regulations.

For new Higher-Risk Buildings, they may only be registered with the Building Safety Regulator once Gateway 3 has been passed. Once registered, they may then be occupied. Further guidance on the requirements for submitting a Gateway 3 application can be found on the UK Government website here.

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Golden Thread Principles

The term 'Golden Thread', is now enshrined in law[12], and it requires building owners to ensure they have made necessary arrangements to record, manage and monitor all information about their building. The principle is that it tells a story, from the start of a building's life, through to the demolition.

It must be kept in electronic format, be capable of being transferred electronically and securely, kept accurate and up to date, be in a readable format, be readily available.

The Construction Leadership Council (CLC) has produced a useful guide – 'Delivering the Golden Thread'- which helps explain The Golden Thread further and how you can follow best practice. You can find the guide here.

Contractural Considerations

The industry has experienced a significant delay to existing, and proposed projects due to the introduction of the Building Safety Regulator, and Gateway processes. With housing providers aiming to improve thermal performance to EPC C through retrofitting by 2030, it begs the question as to whether this target is achievable.

These delays have caused disputes within contracts such as Extension of Time requests, and Loss and Expense Claims, but Developers, Housing Associations and Local Authorities have re-visited their approach to New Build and Refurbishment projects.

Although the statutory approval period for applications to the Building Safety Regulator is 8 weeks for existing buildings, and 12 weeks for new builds, the initial approval period was much higher in reality.

As of March 2026, the Building Safety Regulator has reported 284 decisions on applications being made within a 12 week period, with a 67% approval rate.

Whilst the decision timeline has improved between October 2025 and March 2026, there is still an element of nervousness by all who must liaise with the Building Safety Regulator. This can be mitigated by selecting the right Contract which helps mitigate the risks of delays, and additional costs when dealing with projects relating to Higher-Risk Buildings.

Considerations to Procurement

When considering the contract type for your project, organisations should have a strategy in place to tackle different scenarios and prevent delays. Factors to consider may include examples set out below:

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Figure 8 – Procurement considerations

The introduction of the Act has highlighted the lack of building information available for many clients, particularly for retrofit projects, but also the risk for clients and Principal Contractors in finding unforeseen works which may result in more costs and project delays.

In many cases, clients are favouring a two-stage tendering approach, utilising a JCT Pre-Construction Services Agreement (PCSA), followed by a JCT Design & Build. This approach allows the client to engage with specialists, or a Principal Contractor and (BR) Principal Designer prior to starting works on site, in order to gather building information and identify risks. This can be positive as it allows the client to factor in future expenditure, keep residents informed and commit to realistic timescales for remediation.

An alternative approach is the single-stage tender route, using a traditional design process such as a JCT Intermediate Contract or similar. In this scenario clients would engage with the likes of Architects, Fire and Structural Engineers, Surveyors and other specialist designers to carry out surveys, and produce accurate designs with a higher degree of certainty before tendering.

Summary

Overall, the changes brought by the Building Safety Act, and it's secondary legislation have been implemented for good reason. However, it has highlighted fundamental issues across the industry with regards to; the lack of building information, outdated building information, unknown and increasing safety risks being identified in relation to fire and structure. When these issues are coupled with existing challenges such as budget restraints and skills shortages, it raises a very difficult challenge of achieving retrofit targets.

Many clients are increasing their understanding of the Building Safety Act, and have taken a step back, leading to changes in the strategy and approach to development. In some cases, housing providers have reduced the volume of new development, and re-allocated budgets to focus on existing buildings.

So yes, the Building Safety Act has caused delays, but clients are taking necessary steps to minimise challenges, risks and delays. Ultimately it begins with early collaboration with internal organisational stakeholders and external design teams. Collaboration should not stop there – positive engagement and knowledge

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gathering can be gained from active engagement with residents, commercial tenants and other third-parties such as local fire services.

When the right people form a team, projects can be delivered with a better degree or accuracy in respect of design and cost. As a result, unforeseen issues in retrofitting exisiting higher risk buildings can be mitigated, thus reducing potential cost and delays.

Resources

Podcast: All RISE podcasts are available **here**.

PAS podcast: "PAS for Warm Homes projects" available **here**.

Masterclass: All RISE masterclasses are available **here**.

PAS masterclass "PAS 2035 compliance" available **here**.

Advice pack: All RISE advice packs available **here**.

PAS advice pack: "Introduction to PAS 2035" available **here**).

This pack aims to share insights, good practices, and lessons learned from the sector. It is intended for informational purposes only and does not constitute as recommendations or endorsements of specific suppliers, products, or services or as legal advice. Please always check the latest regulations.

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