



Overview of the Role and Scope of the Building Safety Regulator

INTRODUCTION

The purpose of the Building Safety Act is to remedy the flaws in the building safety regime identified by Dame Judith Hackitt in her final report, 'Building a Safer Future Independent Review of Building Regulations and Fire Safety', commissioned by the UK government following the Grenfell Tower fire on 14 June 2017.

The Building Safety Bill was initially announced in the Queen's Speech on 19 December 2019 following the government's consultation in which NFRC and its members took part which sought views on the new building safety measures proposed in the Hackitt report. The Housing, Communities and Local Government Select Committee undertook pre-legislative scrutiny of the Building Safety Bill between August and November 2020, and published a list of recommendations for the government to consider. On the 28 April 2022 the Building Safety Bill completed its passage through Parliament, received royal assent and became the Building Safety Act 2022.

The purpose of the **Building Safety Act** is to put in place a new and enhanced regulatory regime for building safety and construction products, and to ensure residents have a stronger voice in the process.

It aims to do so principally by establishing a regulator, the **Building Safety Regulator (BSR)**, to oversee a rigorous new regulatory regime for the design, construction and occupation of higher-risk buildings. The Act establishes new duties, on individuals and organisations that are responsible for the building safety throughout the design, build and lifecycle of the buildings.

Current Fire Safety Legislation

The *Regulatory Reform (Fire Safety) Order 2005* consolidated several different pieces of fire legislation. It applies to all non-domestic premises, including communal areas of residential buildings with multiple homes. The Order designates those in control of premises as the responsible person for fire safety and they have a duty to undertake assessments and manage risks.

There is a revised Fire Safety Act, which became law in May 2021 which amends the *Regulatory Reform (Fire Safety) Order 2005* and provides greater clarity over responsibility for fire safety in buildings containing more than one home.

The Act clarifies that for any building containing two or more sets of domestic premises then the order will apply to the building's structure and external walls and any common parts, including the front doors of residential parts. It also clarifies that external walls in the order include "doors or windows in those walls" and "anything attached to the exterior of those walls (including balconies)."

These amendments are expected to provide increased enforcement action in these areas, particularly where remediation of aluminium composite material (ACM) cladding is not taking place.

This Bill extends and applies to England and Wales. Separate fire safety legislation is in place in Scotland and Northern Ireland.

The role and scope of the Building Safety Regulator

The Building Safety Act establishes that the Building Safety Regulator will be responsible for ensuring compliance with the new regime and for policing the more stringent safety measures required for 'in-scope' buildings, defined as multi-occupied residential buildings of 18 metres or more in height, or more than six storeys, where fire or structural failure could lead to multiple fatalities. The BSR will provide a stronger oversight of safety and performance of these buildings and increase the competence of those working on the building's safety. Its three main functions will be:

1. Lead the delivery of the new, more-stringent regulatory regime for buildings in scope.
2. Oversee the competence of all the professionals and trades working on in-scope buildings.
3. Provide an oversight for all buildings focused on using evidence to better manage risks.

The Building Safety Regulator will be the sole building control body for buildings in scope and key decisions will be the responsibility of the BSR, but work will be carried out through a multi-disciplinary team and will interface with other construction and fire safety legislation. It will work in partnership with the Joint Regulators Group (JRG) including representatives from Local Government Association, Local Authority Building Control and the National Fire Chiefs Council.

The HSE have appointed Peter Baker as the Chief Inspector of Buildings. Peter will establish and lead a new system of regulation for buildings and drive culture change in the construction industry. It will give builders, developers, and owners “*risk ownership*” for overall safety rather than the current system of relying on signoff by a building inspector.

Gateway Approach

During design and construction:

When buildings are designed, constructed, or refurbished duty holders, as per CDM 2015, will be given formal responsibilities for compliance with building regulations. It is vital that those working in safety critical roles are competent and can evidence their skills, knowledge, and experience.

Duty Holders are:

Client, Principal Designer, Principal Contractor, Designer(s), Contractor(s). Clear guidance and duties are to be provided to support the development of safer buildings and more stringent regulatory regime. All duty holders will:

- Cooperate and share information with BSR.
- Ensure compliance with Building Regulations.
- Comply with the specific regulatory requirements imposed upon them.
- Ensure they and the people they employ are competent to do the work they are undertaking.

Gateway one: Planning stage

- Before planning permission is granted any fire issues that could impact on the planning permission should be considered.
- Developer will be required to submit a Fire Statement setting out fire safety considerations specific to the development.
- Local Planning Authority will need to consult with local Fire and Rescue Service.
- Local Planning Authorities will need to study the impact of developments on nearby buildings and the fire safety provisions available.

Gateway two: Design stage

The Client will be required to submit key information to the Building Safety Regulator demonstrating how they are complying with Building Regulations through the submission of:

- Full Plans.
- Construction control plan.
- Fire and emergency file.
- Other supporting documentation.

These will be reviewed and checked to ensure compliance. The Client will also be required to ensure that the Principal Designer and Principal Contractor can demonstrate the necessary competence to discharge their respective duties effectively.

BSR will only provide permission for construction to begin once they are in receipt of all the required information and compliance of the legislation can be evidenced. They will also set out and agree an appropriate inspection regime and programme for specific stages of the construction work.

Gateway three: Completion stage

BSR will provide the building control function working with JRG. At this stage, the Client will be required to submit to the BSR information on the final as built construction. This will include:

- Updated as-built drawings indicating any agreed variations since Gateway Two.
- A complete construction control plan.
- An updated fire and emergency file.
- A complete key dataset.

The Client, Principal Designer and Principal Contractor will also need to produce and co-sign a final declaration confirming that to the best of their knowledge the building complies with Building Regulations. Key information related to fire and structural safety submitted during the three separate Gateway steps will form part of the **Golden Thread** of data that will be kept up to date and made accessible to all relevant people through the life cycle of the building.



Please note

No completed (either part or fully) buildings can be occupied until the BSR has issued a Building Registration Certificate.

Building Certificate

An Accountable Person will be legally responsible for all the fire and structural residual risks in the building and to take the appropriate steps and actions to mitigate and manage them. They will be required to provide specific information such as the relevant details identifying the building, and the details of the Accountable Person to the BSR.

On granting the Building Registration Certificate the BSR may attach specific conditions to it with the Accountable person obliged to comply or face penalties including possible criminal sanctions.

There are three different classes of conditions which are:

- **Special conditions**—to deal with specific conditions imposed by the Building Safety Regulator.
- **Voluntary conditions**—proposed by the Accountable Person.
- **Mandatory conditions**—apply to all buildings within scope.

The BSR can review the Building Registration Certificate with a view to adding, amending, or varying the conditions.

The Accountable Person must make enough resources available (*including time and funding*) to:

- Maintain the building's safety case and ensure the conditions set out in the Building Registration Certificate are fulfilled to the satisfaction of the Building Safety Regulator.
- Ensure those employed in the maintenance and management of the building's fire and structural safety have the necessary competence to carry out the role that they are undertaking.
- Engage with residents in the safe management of their building through producing and implementing a Resident Engagement Strategy.
- Reporting into a mandatory occurrence-reporting regime.

In submitting the safety case the Accountable Person will provide a documented record to the BSR that the fire and structural safety risks in the building have been assessed and adequate safety measures have been identified and implemented to manage the risk appropriately.

Golden Thread

Duty-holders will be responsible for creating and maintaining the golden thread of building information related to fire and structural safety. The golden thread will be held digitally to ensure that the original design intent and any subsequent changes to the building are captured, preserved and used to support any safety improvements. At the handover stage between (*Gateway three*) and occupation, key information (*the golden thread*) will have to be provided by the Client to the Accountable Person—both will need to confirm to the BSR that this has happened. The Accountable Person will continue to be responsible for the golden thread and ensuring the information remains accurate and up to date at all times.

To compliment the BSR and the work that they will do there is also going to be a new national Construction Products regulatory role responsible for:

- Market surveillance and oversight of local enforcement action including maintaining a national complaints system.
- Enforcement action with manufacturers.
- Providing advice and support to the industry and technical advice to the government.

In addition, the residents of buildings that are in scope will:

- Have rights to receive information about the safety of their building.
- Be able to request access to appropriate detailed safety information.
- Be involved in decisions about the safety of their building.
- Have their complaints about safety dealt with quickly and effectively.



Please note

Accountable Persons must determine how best to meet the duties placed on them and what arrangement they require. Amendments to the Building Safety Act removed the legal duty to appoint a Building Safety Manager.

Safety case

The provision of a **safety case report** to the Building Safety Regulator will be a mandatory requirement. The safety case should include an introduction by the Building Safety Manager stating how the fire and structural risks are being managed. This should be followed by a written explanation and justification of the approach being taken, referencing all the supporting evidence. The Building Safety Manager will be responsible for keeping the safety case up-to-date. The implementation and continuous development of the safety case is a means of recording that the fire and structural risks of the building are mitigated and managed throughout its lifecycle and to provide a documented record of any processes or procedures that have had to change due to any renovations, alterations or adaptations that may have occurred to the building.



Note

There are currently 13,000 High Rise Residential Buildings (HRRB's) of 18 metres or above in England which will be in scope of the Building Safety Bill and will have to comply with BSR, with 400 coming into scope each year. This figure could rise to in excess of 70,000 HRRB's if buildings of 11 metres or above also come under the role and scope of the BSR.

Building a Safer Future Charter

The Charter has been established to promote an urgent and positive culture change in the construction industry to ensure that buildings are safe for those living and working in them and to protect life by putting safety first, ahead of all other building priorities.

It is a direct response to Dame Judith Hackitt's Building a Safer Future Review set up in the wake of the Grenfell Tower tragedy, and is focussed on driving up standards, changing culture and behaviours and raising the bar in relation to building safety. The Charter's aim is to:

- **Create a culture of transparency and accountability as a priority**—where everyone involved in the design, planning, construction and occupation of a building feels able to raise concerns.

- **Make building safety a collective aim for industry**—so that companies across the sector challenge each other, share best practice and share lessons learned to continually improve the safety of buildings for residents.
- **Pre-empt and support the implementation of building safety reforms**—testing and trialling proposals and sharing the results and proactively taking the lead to continually improve building safety in the future.

NFRC are a **Registered Signatory of the Building a Safer Future Charter**. NFRC recognises that becoming a Registered Signatory is an important first step towards achieving the culture and the behavioural change required in relation to the Charter's objectives around building safety. In confirming our support, we will now be working to ensure that we embed the principles of the Charter into our organisation's activities.

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