

## DRAFT BUILDING SAFETY BILL

# 10 KEY OUTCOMES OF THE DRAFT BUILDING SAFETY BILL

We are working with new and existing clients to ensure readiness for the release of the Building Safety Bill. We will be offering a gap analysis to relevant organisations, in preparation for the upcoming changes.



### Draft Building Safety Bill

Presented to Parliament by the Secretary of State for Housing, Communities and Local Government by Command of Her Majesty July 2020

*"This is most definitely not just a question of the specification of cladding systems, but of an industry that has not reflected and learned for itself, nor looked to other sectors."*

*Dame Judith Hackitt reacting to the Grenfell Tower tragedy.*

We will be supporting the establishment of building safety managers, ensuring the competency of all those involved in design and construction, and supporting any 'accountable persons' by assisting them in the completion of a 'safety case report' for their existing building stock.

We have fire and structural experts on hand to carry out a full review of both existing and new-build higher-risk premises.

The new Building Safety Regulator's powers to stop work, delay occupation and issue unlimited fines may cause unacceptable delays and add extra financial burden to your project. Our team can assist you to ensure you are both competent to undertake the role and be compliant with your duties on all buildings. As a multi-disciplinary consultant, we can provide you with an all-in-one solution to meet your competency needs.

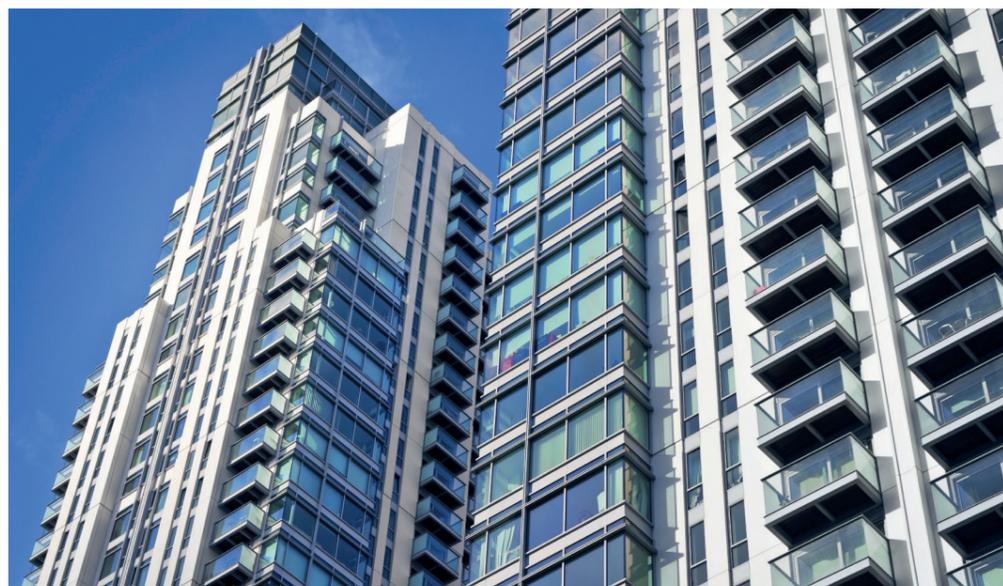
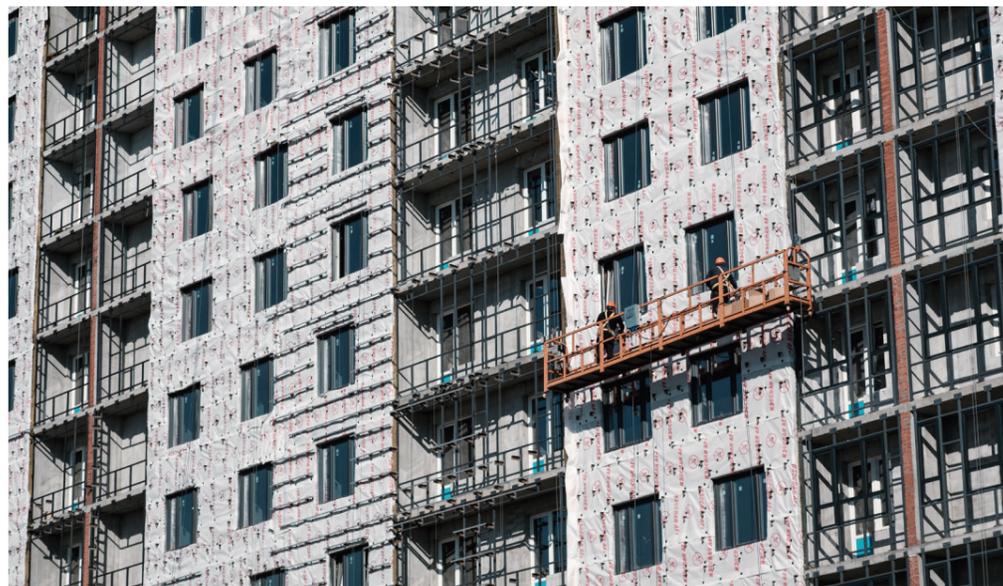
#### About the Draft Building Safety Bill and the outcomes

In 2021, the industry is expecting the now draft Building Safety Bill to be finalised and published. The Draft Building Safety Bill is set to represent the biggest change to fire safety since the introduction of the Regulatory Reform (Fire Safety) Order 2005.

The bill aims to improve regulatory oversight and building safety across the sector. The draft bill is not the finished product and relies on supporting legislation to be put in place to legalise the majority of changes to be made. The bill is currently only at draft stage and therefore there may be further changes prior to publication.

The Draft Building Safety Bill has been structured in response to the changes for reform put forward by Dame Judith Hackitt. By choosing not to solely focus on banning combustible cladding, Dame Judith Hackitt exposed a 'race to the bottom' mentality and failure to learn and adapt across the industry.

Lucy Witts, Head of Fire Consultancy at the Frankham Consultancy Group, provides an overview of 10 of the key outcomes from the Draft Building Safety Bill.



## 1. Building Safety Regulator (BSR)

The draft bill aims to improve regulatory oversight by introducing a new Building Safety Regulator. The Building Safety Regulator will be set up by the HSE and will oversee the safety and standard of buildings. The BSR will have direct responsibility for the safety of higher-risk buildings and must set up a national safety register.

All new applications for 'higher-risk buildings' will be submitted to the Building Safety Regulator and not Local Authority Building Control.

## 2. Higher-risk buildings

The bill introduces mechanisms to improve accountability, competency, suitability of materials and ultimately building safety throughout the lifecycle of a 'higher risk building'.

With a primary focus on multi-occupied residential premises over 18m and/or 6 storeys in height, it is predicted that following a transitional phase this scope will be widened to include multi-occupied residential premises over 11m and any building where there are vulnerable persons.

## 3. Throughout the life cycle of higher-risk buildings

The draft bill introduces three key gateways for higher-risk buildings (Gateway 1 to 3).

Gateway 1 - Prior to the planning stage of a building  
Gateway 2 - Prior to the construction stage  
Gateway 3 - Prior to occupation of the building

## 4. Making duty holders more accountable

Key duty holders will be introduced at Gateway 2 and 3, these will be the client, principal designer, principal contractor, designer(s) and contractor(s). The developer will have responsibility at Gateway 1.

All duty holders during the design and construction phase will be made more accountable. Duty holders must be able to evidence that they and the people they employ are competent to do the work they are undertaking.

The duty holders must co-sign a conformity statement prior to handover and be able to evidence that the building is able to comply with B1 to B5 of the building regulations, prior to a building assurance certificate being provided and the building ultimately being occupied.

A mandatory occurrence reporting scheme has been introduced, making it compulsory for all duty holders to report any safety failings.

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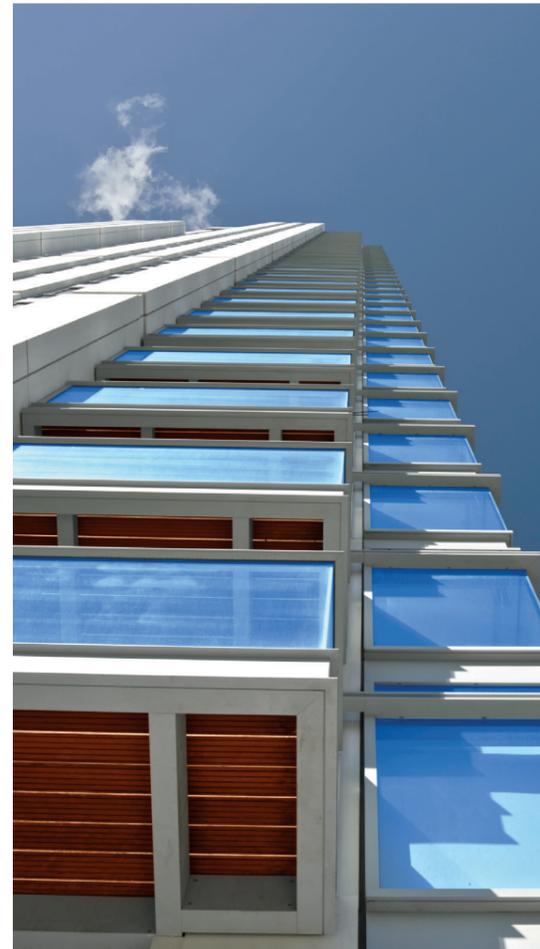
## 5. Building Assurance Certificate

During Gateway 2 and 3, the client will need to demonstrate to the BSR that the requirements of the building regulations are being met and risks are being appropriately managed in order to progress to the next stage of development. At handover stage, it is the responsibility of the 'accountable person' to ensure the building is registered and a Building Assurance Certificate issued. New higher-risk buildings may not be occupied until a certificate has been issued. This certificate means the building complies with the required legislation and is considered safe to be occupied.

The legislation includes existing higher-risk buildings which will need to be registered with the BSR, in order to be granted a certificate. The certificate will need to be displayed in all higher-risk buildings to provide greater transparency to occupants.

The 'accountable person' will need to evidence that the statutory obligations in the building are being met. The provision of a building assurance certificate should alleviate some of the pressure faced by leaseholders of residential premises when trying to sell their home, as this assurance information may be provided to lenders. For example, it is likely that the building certificate will be accepted in place of the EWS1 form as it will need to include consideration of the suitability of the make-up of the external wall.

Clearly this new process, coupled with the new Fire Safety Bill, has been designed to an extent to make it easier to put pressure on freeholders of existing buildings with regards to replacing combustible materials to the external façade.



## 6. Introduction of the 'Accountable Person'

The Draft Building Safety Bill introduces the 'accountable person' for higher-risk buildings. The 'accountable person' is the person with legal responsibility for the building, most likely the person who owns the freehold.

The 'accountable person' for a higher-risk building will be responsible for registering and applying for the building assurance certificate. A mandatory reporting scheme should be followed, for all structural or fire issues, with the possibility that failure to report may lead to prosecution.

The 'accountable person' will be ultimately responsible for ensuring the safety case report for any relevant buildings under their control has been maintained. The 'accountable person' must appoint a building safety manager who will be responsible for the building's safety daily. The building safety manager must be competent to fulfil their role and registered with the BSR. The building safety manager must report all safety failings to the BSR and proactively engage residents.

## 7. Building Safety Manager

As highlighted, the accountable person must appoint a Building Safety Manager for each higher-risk building, this may be an individual or a legal entity. The Building Safety Manager will have the day-to-day responsibility for ensuring that the building is managed in accordance with the safety case report.

Although the 'accountable person' will have the legal responsibility, it will be the Building Safety Manager's duty to identify and make the 'accountable person' aware of any safety failings within the building.

The Building Safety Manager will implement a resident engagement strategy for the building, acting on any safety complaints raised by residents. The strategy should ensure that residents are given a 'voice' in order to provide greater protection for residents. Residents should be encouraged to report safety failings in their building and be provided an avenue to escalate building safety complaints, via the building safety manager.

The Building Safety Manager must ensure the competence of any maintenance or management employees working within the building.



## 8. Golden Thread of Information

Building on the requirements set out by Regulation 38, a golden thread of information should be maintained for all higher-risk buildings.

A digital fire and emergency file should be set up. The golden thread of information should include, but is not limited to:

- Full plans
- As-built information, including products used
- As-built fire strategy
- The construction control plan
- A list of duty holders involved in the project

Based on this information, a safety case report will be produced for each higher-risk building and reviewed annually.

Maintaining the golden thread of information may be difficult for existing buildings, where building safety information has been misplaced over the building's lifetime. It may be necessary to arrange for an as-built fire strategy and up to date drawings to be produced for existing higher-risk buildings to retain this golden thread.

The Building Safety Regulator must be satisfied that the golden thread of information is available before granting the building assurance certificate.

The golden thread of information will allow a simple concept of the right people receiving the right information at the right time.

Currently, investigations into the build-up of the external façade of existing buildings and the suitability of other passive fire protection measures has exposed a lack of relevant building information available, with many unable to evidence compliance without the need for further investigation. This will prevent this in the future.

## 9. Safety Case Report

The 'accountable person' will need to submit a safety case report – effectively a document stating they know what the risks are within their building and are able to demonstrate how they are managed. This will build greater redundancy into the system, by forcing the 'accountable person' to consider worst case scenario events and provide mitigation, such as arranging for an emergency call-out service or installing an ATS system.

A structural and fire risk assessment of the premises should feed into the safety case report. The safety case report should be reviewed regularly, which is likely to be a minimum of annually, or in reaction to any significant change including industry updates. The introduction of the safety case report will mean that lessons learnt within industry are learnt and acted upon by 'accountable persons' of similar buildings.

## 10. Promoting competence across industry and within building control

Amendments will be made to the Building Act 1983 to allow the building regulations to apply competency requirements. All involved in the building safety process must be satisfied that everyone, from architects to building safety managers, involved in the building construction and safety process are competent to do so.

We can expect to see a greater reliance on 3rd party accreditation schemes as a means of evidencing competency. The bill will set up a committee to ensure greater guidance is provided relating to required competency levels, and how they may be achieved.