

# Draft Building Safety Bill

## Introduction & Overview

**London Building Control**  
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## Who we are?

London Building Control Ltd are one of the largest Corporate Approved Inspectors. LBC work to industry codes and building control performance standards to ensure our building control process provides added value - reducing unnecessary bureaucracy, delays and costs for our clients. With offices in London, Manchester, Welwyn Garden City, Chichester and Exeter we offer a high-level service for commercial, public sector and residential projects.

## Our Professional Team

Our clients are important to us, so we take the time to listen to their needs and align our experience and expertise to ensure they are met. LBC's surveying team provide advice on all areas of compliance within Building Regulations. We provide pre-application advice and assistance to design teams throughout the process to ensure building regulation compliance.

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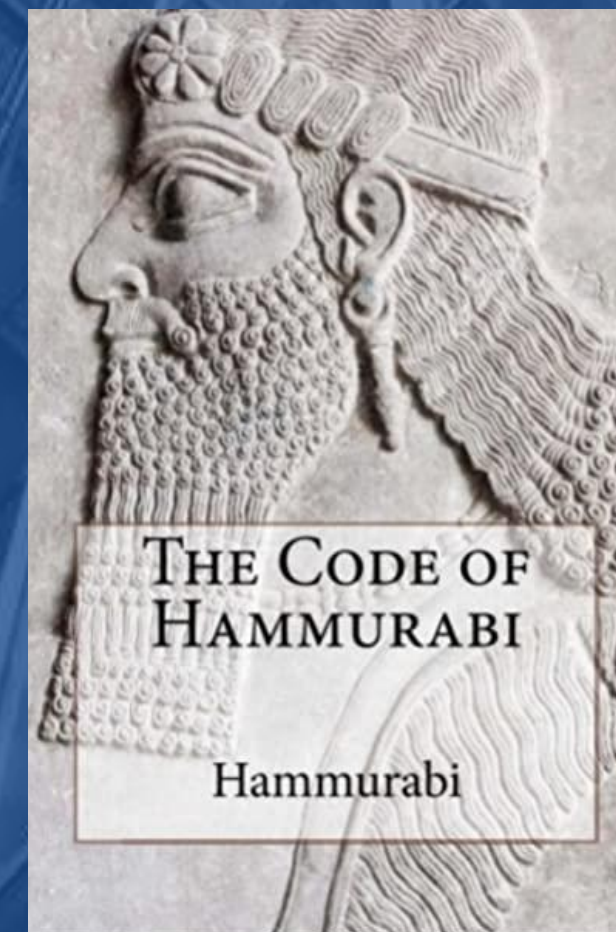
## Michael Morgan – MSc, MRICS, MCABE, CBuildE



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## Building Control – A brief history

Before - Great Fire of  
London



<https://www.amazon.com/Code-Hammurabi/dp/1319649525>

The Great Fire of London 1666  
Rebuilding Act 1667



[https://en.wikipedia.org/wiki/Great\\_Fire\\_of\\_London](https://en.wikipedia.org/wiki/Great_Fire_of_London)

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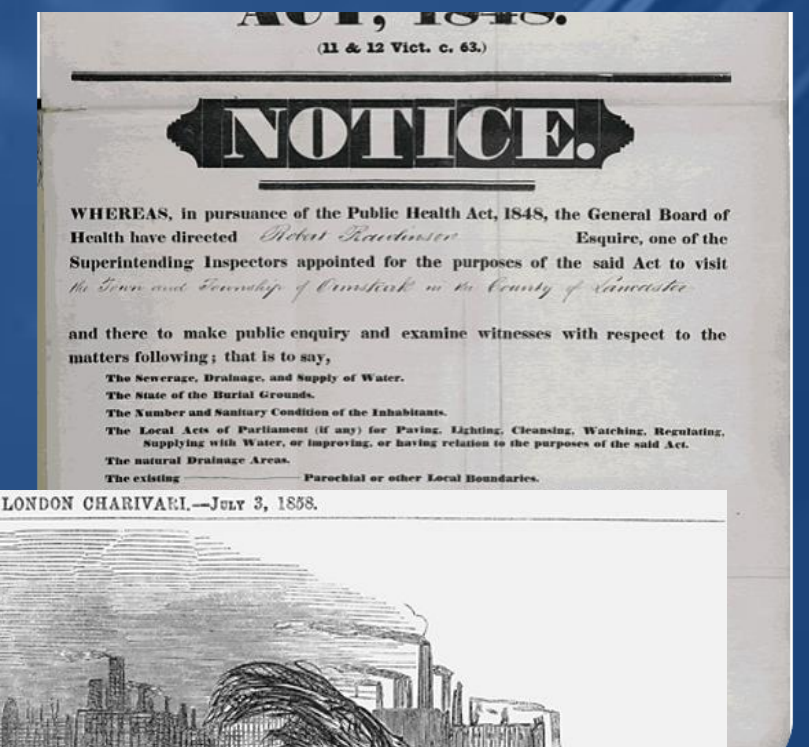
## The Public Health Revolution!

**Public Health Act 1848** introduced in response to the social and health problems caused by 'industrial revolution.'

The problem of Public Health was declared to be an environmental one rather than a medical problem.

Provisions made for better sanitation with advent of sewers and cesspools.

*Streets to be cleared of effluent and filth that spread disease.*



[https://www.bbc.co.uk/hispanic/arts/2012/07/120703\\_london\\_fresco.shtml](https://www.bbc.co.uk/hispanic/arts/2012/07/120703_london_fresco.shtml)

## Health & Safety Revolution!



### PHA 1961

- ByeLaw removal
- National Building Regulations Ministry of Health
- Plans deposited
- Inspection of works
- Testing of drains and sewers
- Disproportionate Collapse following Ronan Point

### Building Regulations 1965

### Building Regulations 1972

### Building Regulations 1976

### The Future of Building Control in England and Wales

#### 1981 White paper

- Housing and Building Control Act 1984
- Provisions for Building Control to be carried out by private sector Housing and Building Control Act 1984
- Provisions for Building Control to be carried out by private sector

### Building Act 1984

#### Provisions for non prescriptive regulations & Approved Documents

#### Consolidated parts 1936 and 1961 Public Health Acts and Housing and Building Control Act

### The Building Act 1984 (the game changer!!)

- Provisions for private sector Building Control
- Change from prescriptive requirements to broad functional requirements
- Approved Documents introduced as guidance
- Technical prescriptive requirements 1976 Building Regulations used as basis for Approved Documents

## How is '*Building Work*' assessed



Enforcing  
Legislation

Building Act 1984

Statutory  
Instrument

Building  
Regulations 2010  
set the technical  
standards

**GUIDANCE**

Approved  
Documents



British/CE  
Standards



Supplementary  
Guidance



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## Technical Requirements – Schedule 1



### Requirement

#### *Requirement*

#### **Means of warning and escape**

**B1.** The building shall be designed and constructed so that there are appropriate provisions for the early warning of fire, and appropriate means of escape in case of fire from the building to a place of safety outside the building capable of being safely and effectively used at all material times.

#### *Limits on application*

Requirement B1 does not apply to any prison provided under section 33 of the Prison Act 1952<sup>(a)</sup> (power to provide prisons, etc.).

(a) 1952 c. 52; section 33 was amended by section 100 of the Criminal Justice and Public Order Act 1994 (c. 33) and by S.I. 1963/597.

**Technical requirements of regulations are an Outcomes-based approach**  
*Appropriate – Reasonable – Adequate – Suitable*  
**Not prescriptive but with Approved Guidance**

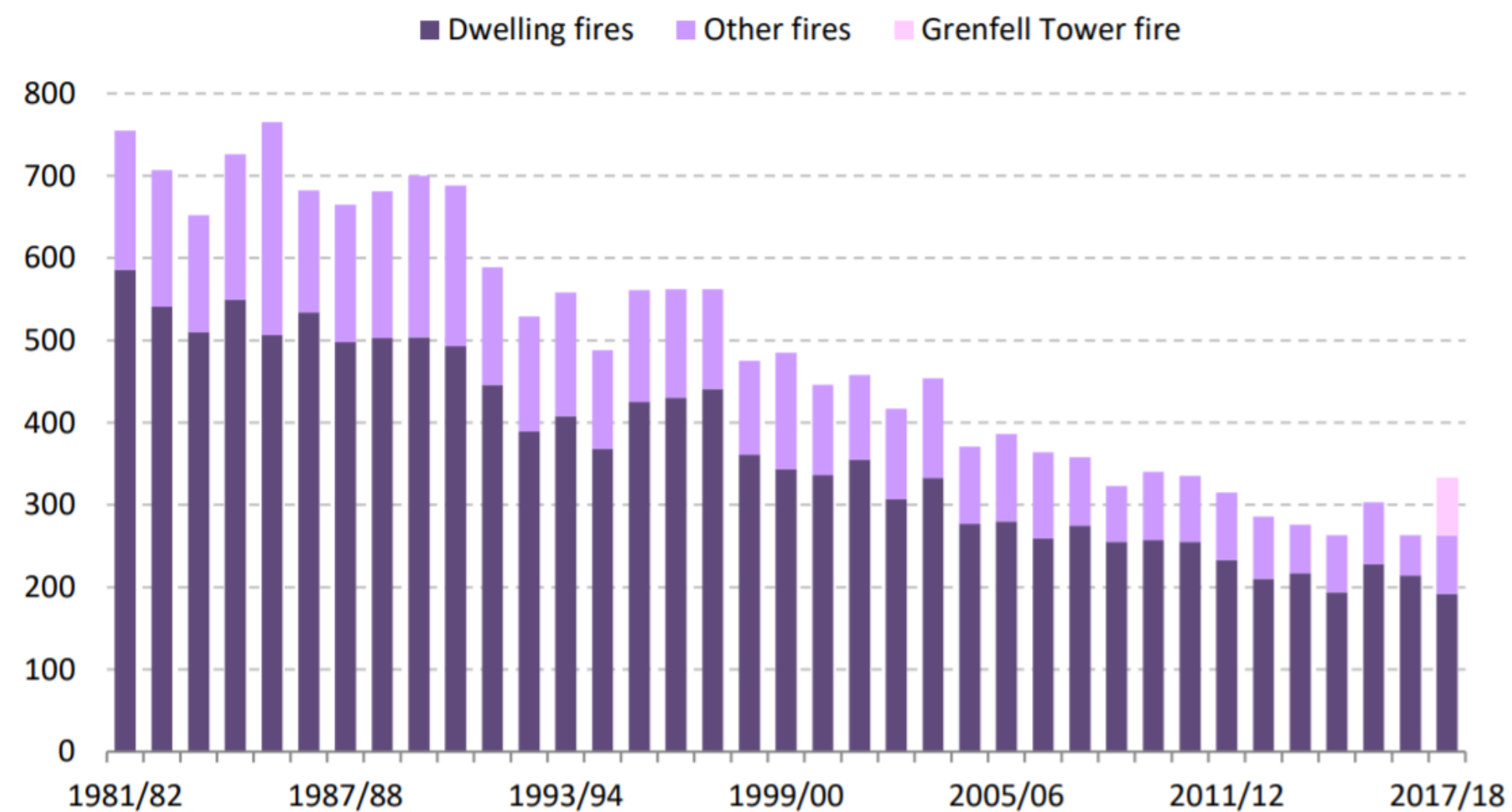
## The Building Act 1984



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## Why is Fire Safety important?

Figure 4.1 Total fire-related fatalities in dwellings or other fires, England; 1981/82 to 2017/18



Home Office



Fire and rescue incident statistics:  
England, year ending June 2018

Statistical Bulletin 25/18

8 November 2018

*Is it working?!*

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## Hackitt Report & Building Regs Review



- *Implementation Plan published December 2018*
- *New regulatory framework*
- *Single streamlined regulatory route*
- *Duty holder roles and responsibilities*
- *Gateway points for regulatory oversight*
- *Rigorous enforcement powers*
- *Industry competence*

### Building a Safer Future

Independent Review of Building  
Regulations and Fire Safety:  
**Final Report**

May 2018  
Dame Judith Hackitt DBE FREng

Cm 9607

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# Draft Building Safety Bill

## Parts & Contents – Overview

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# The Building Safety Bill & Building Act 1984

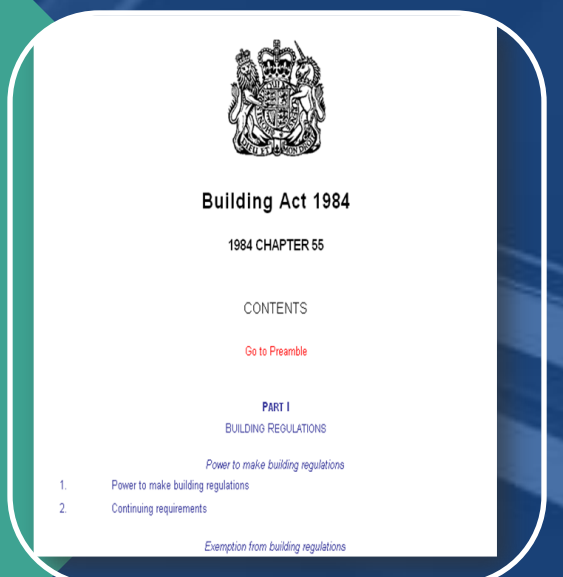


An Act is known as an 'Act of Parliament'

3 sets of readings as a Bill in each House

Royal Assent by the Queen

Legal Scrutiny



## Building Safety Bill ‘Parts’



- *Part 1 – Overview of the ‘Act’*
- *Part 2 – The new Building Safety Regulator, definitions, scope, functions*
- *Part 3 – Amendments to the Building Act – Duty holder regime, registration of building control*
- *Part 4 – Occupied building obligations and the roles of Accountable Person and Building Safety Manager, plus offences and sanctions*
- *Part 5 – Supplementary provisions regarding*



# Draft Building Safety Bill

## The Building Safety Regulator

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## Building Safety Regulator Overview



- *Health & Safety Executive*
- *Regulatory decisions under the new regime*
- *Implementing the new stringent regulatory regime*
- *Advising on Building Standards*
- *Overseeing Building control Bodies*
- *Competence in the built environment*
- *Assistance from ‘Designated Body’*

**Probity**

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## Building Safety Regulator Overview



### 4 Duty to facilitate building safety: higher-risk buildings

- (1) The regulator must provide such assistance and encouragement to relevant persons as it considers appropriate with a view to facilitating their securing the safety of people in or about higher-risk buildings in relation to building safety risks as regards those buildings.
- (2) For this purpose “relevant persons” means —
  - (a) residents of higher-risk buildings,
  - (b) persons upon whom duties are imposed by virtue of paragraph 4D of Schedule 1 to the Building Act 1984 (dutyholders), and
  - (c) persons who are accountable persons or building safety managers within the meaning of Part 4 of this Act.
- (3) Parts 3 and 4 contain provision conferring further functions on the regulator in relation to higher-risk buildings.

## Building Safety Regulator Overview



- 6 Facilitating improvement in competence of industry and building inspectors**
- (1) The regulator must provide such assistance and encouragement as it considers appropriate to—
    - (a) persons in the built environment industry, and
    - (b) registered building inspectors,with a view to facilitating their improving the competence of persons in that industry or members of that profession (as the case may be).
  - (2) For the meaning of “built environment industry” and “registered building inspector” see section 35.

## Building Safety Committees



- *Building Advisory Committee – Section 9*  
*Validate and assure guidance*
- *Committee on Industry Competence – Section 10*  
*System for competence oversight.*
- *Residents' Panel – Section 11*  
*Resident's voice on decisions*

## Definition of “in-scope” buildings

*Clause 19: Meaning of “higher-risk building*

- *Consultation with the BSR and others*

*Preliminary defined as:*

- *Building with two or more dwellings*
- *Two or more Rooms for Residential Purposes*
- *Student accommodation*
- *Meets the height condition (18m or 6 storeys)*

*Excludes:*

- *Residential care homes*
- *Secure residential institutions*
- *Temporary accommodation*





# Draft Building Safety Bill

## Dutyholder regime

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## Dutyholders – Accountability



**Robert Jenrick MP (Secretary of State for Housing, Communities and Local Government)**

*“the draft Bill will introduce a new era of accountability, making it clear where the responsibility for managing safety risks lies throughout the design, construction and occupation of buildings in scope. There will be tougher sanctions for those that fail to meet their obligations.”*



## Dutyholders – Accountability



### 38 Dutyholders and general duties

In Schedule 1 to the Building Act 1984 (building regulations) after paragraph 5 insert –

*“Appointed persons*

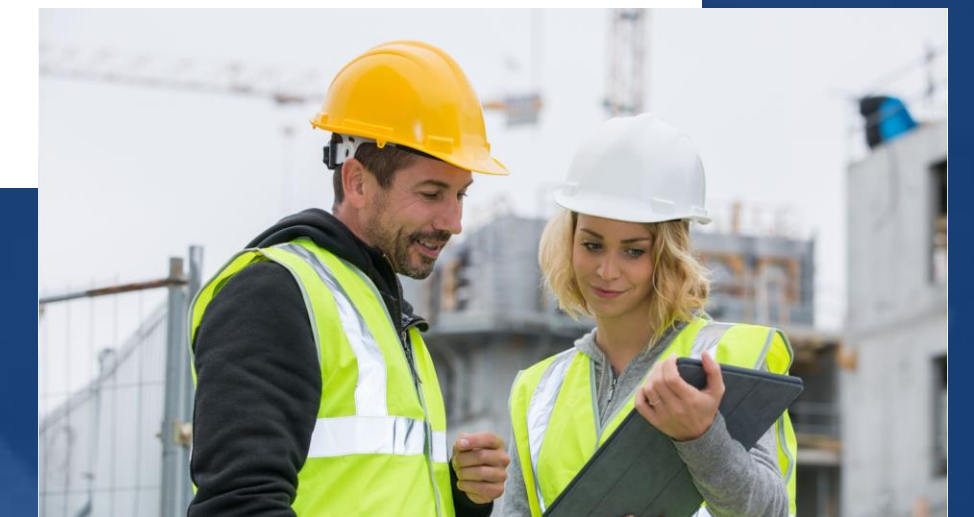
- 5A (1) Building regulations may require prescribed appointments to be made, in relation to any work or other matter to which building regulations are applicable.
- (2) Building regulations may make provision about appointments, including provision about –
- (a) the persons who are to make appointments;
  - (b) the persons who may be appointed;
  - (c) the time by which appointments must be made;
  - (d) the period for which persons are to be appointed;
  - (e) the termination of appointments;
  - (f) the replacement of appointed persons.
- (3) The regulations may provide that in prescribed circumstances an appointment is treated as made.
- (4) In this Schedule “appointed person”, in relation to any work or other matter to which building regulations are applicable, means a person appointed in relation to that work or matter under building regulations made by virtue of this paragraph.

## Dutyholders – General duties



### *General duties*

- 5B (1) Building regulations may, for the purpose of facilitating compliance with any requirement of building regulations in relation to any work or other matter to which building regulations are applicable –
- (a) impose duties on relevant persons in connection with the planning or management of the work or other matter;
  - (b) require relevant persons to co-operate with other relevant persons.
- (2) The following are “relevant persons” for this purpose –
- (a) any appointed person;
  - (b) any prescribed person.”





### “Competence requirements

- 5C
- (1) Building regulations may, in relation to any work or other matter to which building regulations are applicable, impose competence requirements on—
    - (a) any appointed person, or
    - (b) any prescribed person.
  - (2) A “competence requirement” is a requirement relating to—
    - (a) the skills, knowledge, experience and behaviours of an individual;
    - (b) the capability of a person other than an individual to perform its functions under building regulations.
  - (3) The regulations may require an appointed person who is not an individual to give an individual acting under its control who has the appropriate skills, knowledge, experience and behaviours the task of managing its functions as an appointed person.”

# Dutyholders – Competence



BSI Flex 8670: v1.0 2020-09  
WARNING: THIS IS A DRAFT AND MUST NOT BE REGARDED OR USED AS A PUBLISHED STANDARD. THIS DRAFT IS NOT CURRENT BEYOND 20 OCTOBER 2020

Built environment – Overarching framework for competence of individuals – Specification

BSI Flex 8670: v1.0 2020-09

This BSI Flex has been edited in accordance with BSI house style.

Please note that this is a draft and not a typeset document. Persons commenting on this draft are advised not to comment on matters of typography and layout.

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<https://standardsdevelopment.bsigroup.com/projects/9020-04664>

by **20/10/2020**

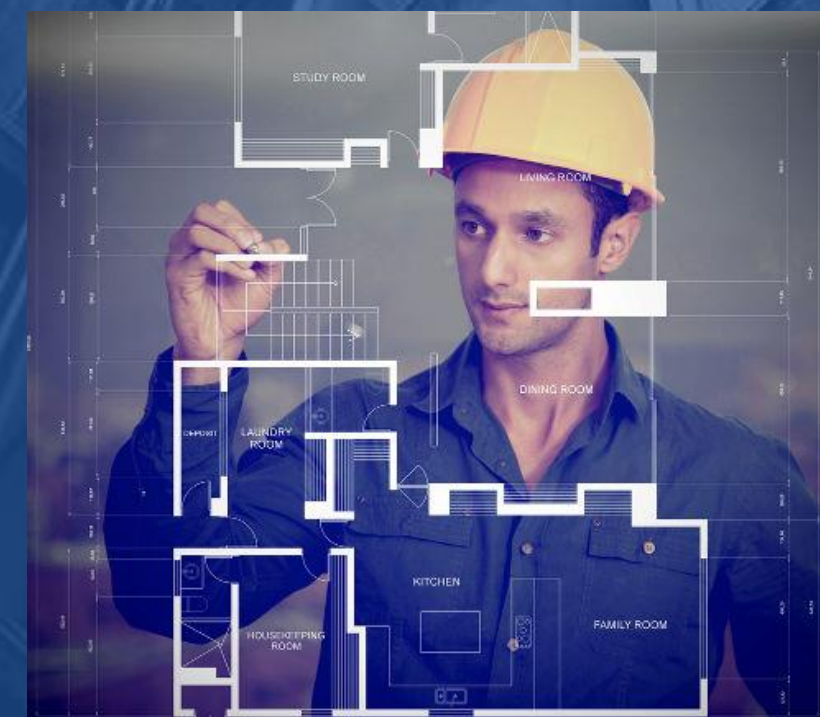
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## Dutyholders – Accountability

### 61 Accountable person

- (1) In this Part any reference to the “accountable person” for a higher-risk building is to—
- (a) a person who holds a legal estate in possession in any part of the common parts (subject to subsection (2)), or
  - (b) a person who is under a relevant repairing obligation in relation to any part of the common parts.



### 70 Nominated individual

- (1) This section applies where a person other than an individual has been appointed as the building safety manager for a higher-risk building.
- (2) The building safety manager must as soon as reasonably practicable appoint an individual acting under its control to be the nominated individual for the building.
- (3) If at any time there is no nominated individual for the building, the building safety manager must as soon as reasonably practicable appoint another individual acting under its control to be the nominated individual for the building.
- (4) A nominated individual must manage the building safety manager’s functions.
- (5) The building safety manager may appoint an individual under subsection (2) or (3) only if satisfied that the individual has the appropriate skills, knowledge, experience and behaviours to manage their functions.



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Building Control regime &  
More...

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## Strengthened oversight



- *The Regulator is the building control authority for higher-risk buildings*
- *Regulation of Building Control Approvers  
Local Authority & Approved Inspectors*
- *Register of BCB's*
- *Building Registration*





## The 'Gateway Points'?

### Gateway 1 – Planning Permission

*The Planning Authority must receive information that will take the form of a Fire Statement*

### Gateway 2 – Plans sign off

*No start on site allowed until the BSR has formally approved the plans*

### Gateway 3 – Completion

*Duty holders to certificate the buildings compliance and no occupation allowed until such time as the BSR has issued final certification. Golden Thread!*

### Building a Safer Future

Independent Review of Building  
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## Building Control



### 58A “Registered building inspector”

In this Act “registered building inspector” means an individual registered as a building inspector in accordance with this Part.

- *Authorised officers – Section 27 & 28*
  - *Regulatory Enforcement regime – Section 42...*
- Compliance notices*  
*Stop Notices*

## Building Control Enforcement



- *Increase of time-limits for formal enforcements of non-compliance with Building Regulations (see sections 35 and 36 of the Building Act 1984). It extends prosecutions for contravention of the Regulations from 2 years to 10 years.*
- *Requirement to correct non-compliant work from 1 year to 10 years.*
- *Stronger sanctions*

## ‘Safety Cases’ for existing buildings



- *Regulator issues Building Assurance certificates.*
- *Accountable persons must apply for an Assurance Certificate and produce a ‘safety case’.*
- *Mandatory Occurrence reporting system*
- *The Golden Thread of information.*
- *Building Regulation 38?*





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## Supplementary provisions

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## New complaints procedures



- ***New Homes Ombudsman***

*Approve a code of practice about the standards of conduct and quality of work*

- ***Housing Ombudsman***

*Prevents the apparent “democratic filter” and allows social housing complainants to escalate a complaint directly to the Housing Ombudsman*

<https://www.housing-ombudsman.org.uk/>

**Housing**  
Ombudsman Service

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## Construction Products Regulations

- Construction Products (Amendment etc.) (EU Exit) Regulations 2020
- Imposes requirements on product manufacturers
- Declarations of performance
- Secretary of State may regulation make provision for products that are ‘safety critical’
- Definition – *‘any product that would cause death or serious injury to any person’*
- Current discussion with CPA



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## Commencement and transitional periods



- *Scrutiny – Parliamentary Committee*
- *Introduced to House of Commons*
- *Secondary Legislation*
- *Statutory Instruments*
- *Act Amendments*
- *New industry frameworks*



**Thank you for listening**  
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