

## FACT SHEET: The New Building Control Regime

**The Building Safety Act 2022 has introduced the most significant changes to legislation and culture in the construction industry since the Second World War. This transformative shift brings with it a level of uncertainty. Developers, architects, and contractors now face a cultural transition in how they approach safety and adapt to new regulations. While some changes are procedural and others are technical, they all have a profound impact on how the industry operates.**

Let's examine the three main changes in detail:

### A. The Building Safety Regulator

The Building Safety Regulator (BSR), part of the Health and Safety Executive (HSE), is now responsible for all Building Regulation matters in England and Wales. The focus is on driving a cultural change within the construction industry. The aim is to establish mechanisms within the law that identify and assign responsibility at each stage of the design and construction process, as well as throughout the occupation of a building.

While there is a strong emphasis on higher-risk buildings (HRBs), these changes apply to all work subject to building regulations. The intention is to ensure that duty holders are clearly identified, and expectations are well-defined, thus fostering a cultural shift within the industry. Regardless of the scale of a project, whether it's a domestic extension or a large-scale mixed-use development, all parties involved in the design and construction process will have a role to play. It is expected that the regulator, including all building control bodies, will exercise their enforcement powers appropriately and proportionately. The introduction of new duty holder provisions will play a critical role in identifying the root causes of building regulation contraventions, enabling a clear path to accountability.

Another significant aspect of the new regime is the increased focus on competence. The competence of all individuals involved in the design and construction process is central to the new duty holder roles. The regulations draw upon the structure of the Construction (Design and Management) Regulations 2015 (CDM2015), and only those who are competent should assume the role of a principal designer under the building regulations. To evidence competence in these new roles, the British Standards Institution (BSI) has developed Flex 8670, which includes PAS8671 and PAS8672 for principal designer and principal contractor roles. These standards provide a framework for demonstrating competence in these roles.

Understanding who is responsible is another key aspect. The introduction of three new key roles – client, principal designer, and principal contractor – brings clarity to the planning, management, and monitoring of both the design and construction phases of a project to ensure compliance with building regulations. These changes leave no doubt that the BSR possesses the authority and willingness to enforce compliance.

### B. Duty Holders

The implementation of the Building Safety Act 2022 requires careful consideration of new duty holder requirements for all building projects. These changes took effect from 1 October 2023, with transitional provisions for projects where initial notices were issued before that date. For all other projects, it is crucial to adhere to the duty holder requirements.

There are three key duty holders: clients, designers, and contractors.

### **1. Client:**

A client is any person for whom a project is carried out. It is the client's responsibility to appoint a principal designer and principal contractor for the project and ensure the planning, management, and monitoring are in place to comply with relevant requirements. However, there is an exception for domestic clients, who are not in the course or furtherance of a business. While they must still ensure compliance with building regulations, they may not be required to make duty holder appointments.

### **2. Designer:**

The principal designer, appointed under Regulation 11D, assumes responsibility for planning, managing, and monitoring a project during the design phase to ensure compliance with all relevant requirements.

### **3. Contractor:**

For projects with only one contractor, that contractor assumes the responsibility. For projects with multiple contractors, a principal contractor is appointed. In some cases, the principal designer may assume the role of principal contractor if agreed upon in writing with the client and principal designer. The principal contractor is responsible for planning, managing, and monitoring a project during the construction phase to ensure compliance with all relevant requirements.

### **Responsibilities:**

All individuals or organizations involved in design or building work must have the necessary skills, knowledge, experience, and behaviors to fulfill their designated tasks. Designers must take all reasonable steps to ensure that their designs would comply with all relevant requirements if built. Contractors must ensure that the building work they carry out complies with all relevant requirements, providing appropriate supervision, instructions, and information to their workers.

Three key duties:

**1. Duty to ensure compliance:** The primary responsibility for ensuring compliance with building regulations lies with those who initiate building work and those who play crucial roles in the design and construction process. These duty holders are accountable for ensuring that work is designed and constructed in compliance with building regulations.

**2. Duty to be competent:** Duty holders must possess the necessary skills, knowledge, experience, and behaviors relevant to their designated tasks. If an organization is involved, it should have the organizational capability necessary to fulfill these duties.

**3. Duty to cooperate, coordinate, and communicate:** Duty holders are required to work together effectively, maintain clear lines of communication, share information, and collaborate throughout the design and construction process.

### **C. Building Control**

The BSR is responsible for Building Regulations in England and Wales. In addition to being the regulator, they have specific responsibilities for higher-risk buildings (HRBs). Approved Inspectors have had to reapply to be Registered Building Control Approvers. Building inspectors must demonstrate their competence at key levels of complexity, be registered, and refrain from offering advice.

## **What does this mean for your building project?**

These new building regulations requirements now apply to all building work subject to the building regulations, with some transitional provisions in place. As a result, significant changes must be made to the way building work is commissioned and carried out. It is important to remember that while dutyholder responsibilities can be delegated, they cannot be abrogated. Additionally, individuals or organizations may hold multiple dutyholder roles throughout the process, so it is essential to understand the implications and expectations associated with each role.



### ***Building Approvers Ltd.***

#### ***How we help***

*Building Approvers Ltd. has been established to offer Building Regulations plan checking and advice to Principal Designers at key stages of their design ahead of submission for formal approval by the Building Safety Regulator or Building Control Body.*

*Unlike Approved Inspectors who are not permitted to offer design advice and so cannot act as a consultant to the Principal Designer, we are an independent consultant with a dedicated approach to ensuring your project complies.*

*We provide advice to the Principal Designer from initial draft designs through to working drawings and assist the project through planning Gateways.*