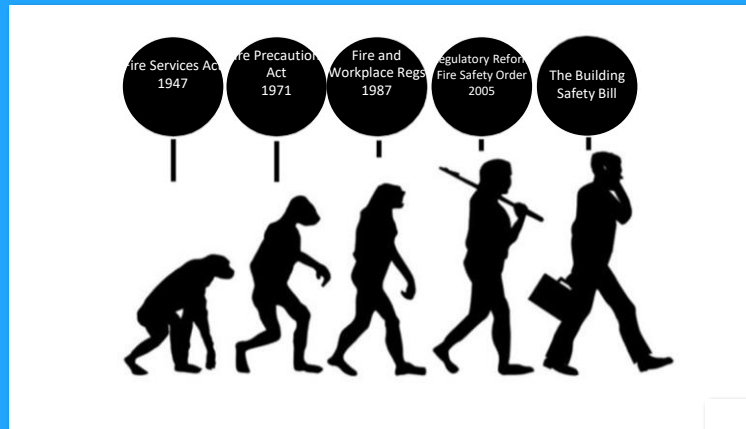


THE DRAFT BUILDING SAFETY BILL

AN INTRODUCTION



LONDON
CONSTRUCTION
PROGRAMME

It is worth noting at this stage that the building safety bill is still in draft form and whilst it is expected that the ideas for reform will be taken on board their may be slight changes

The draft building safety bill outlines the implementation of the regulatory reforms put forward by Dame Judith Hackitt

The bill is still at draft stages and further changes may be made. For example; changes have been made since the release of the initial hackitt report away from a joint competency authority (HSE, local authority building control and FRS) this responsibility has now been given to the HSE as the Building Regulator

For those familiar with the fire safety order, building regulations and CDM you will see that in principle the rules are the same, it is just the way we make people accountable / regulate that is different / how we ensure that certain steps are followed

THE DRAFT BUILDING SAFETY BILL



This webinar will look at the who, what, why, when, where of the building safety bill and talk about how I think this will be implemented and effect both industry and residents of HRRBs.

5 parts to the building safety bill

Part 1 overview of the bill

Part 2 establishes a new Building Safety Regulator within the Health and Safety Executive.

Part 3 deals with amendments to the Building Act 1984 as it applies to England. Changes to the regulatory oversight during the lifecycle of a building over 18, and provides for the registration of building inspectors and building control approvers to improve competence levels in the building control sector by better regulation.

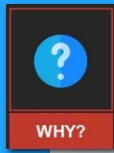
Part 4 is concerned with higher-risk buildings when they are occupied, defines and places duties on the Accountable Person (the dutyholder in occupation) and Building Safety Managers in relation to building safety risks in their building.

Part 5

New Homes Ombudsman all builders responsible for new build homes must register. Residents of new builds may make a complaint with the new homes ombudsman.

Provisions for construction products
Committee for industry competence, with particular regard to architects

THE DRAFT BUILDING SAFETY BILL



Why we are doing it, is ultimately in reaction to the fire at Grenfell Tower.

14th June 2017, a fire broke out at Grenfell Tower, a 24-storey residential tower block. Starting on the Tower's fourth floor, the fire quickly spread throughout the building and took 24 hours for firefighters to bring under control.

The building was built based on a stay put policy, which meant that residents were asked to remain in the building.

The building had a single staircase as the idea was that if a fire originated in a flat this would be contained for up to 60 minutes. The compartmentation of the building should have been such that, at most, other flats on the fire floor would need to evacuate.

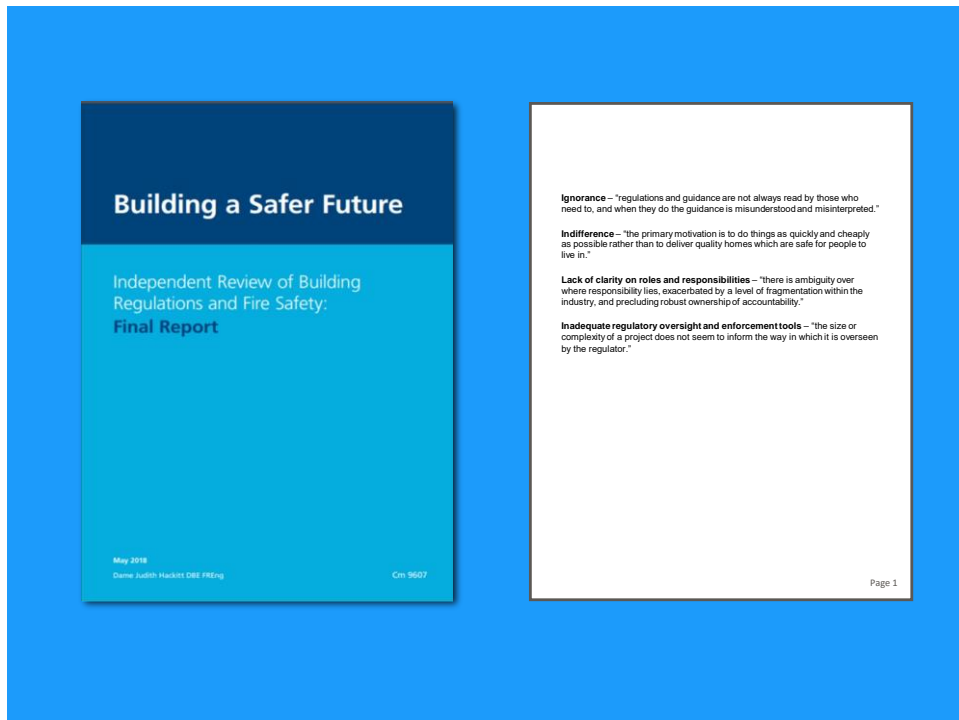
The smoke control system was designed based on a design fire - a specific size fire for that building.

There were a series of other failings in the building such as insufficient emergency

lighting and fire doors which were found to last 15 minutes instead of 30.

71 fatalities were confirmed by the coroner – and a further former resident passed away in January 2018. It was the greatest loss of life in a residential fire since the Second World War.

Following the Grenfell tower incident in July 2017, Dame Judith Hackitt was commissioned to carry out an independent review.



Dame Judith Hackitt did not just look at Fire Safety but Building Safety as a whole

The draft building safety bill has been written to detail how the government intends to implement the recommendations for reform set out by Dame Judith Hackitts independent review of building regulations and fire

safety

There is inadequate regulatory oversight

Guidance not followed or misunderstood

Motivation across industry to do things quickly and cheaply which in turn has driven down safety standards with an increase in design /build schemes with lack of regulatory intervention

The improvements with regards to accountability, and better regulation will make it more difficult for people to do things quickly and cheaply without the necessary competence

The main outcomes of the building a safer

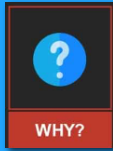
future report were:

- Create a more effective regulatory and accountability framework to provide greater oversight of the building industry;
- Introduce clearer standards and guidance;
- Put residents at the heart of a new system of building safety, empowering them with more information, engaging them on how risks are managed in their building and ensuring effective routes for raising and escalating safety concerns; and
- Increase transparency – building

assurance certificates

- Help to create a culture change and a more responsible building industry, from design, through to construction, management and refurbishment.
- Lack of accountability within the industry
- Lack of fire safety information for buildings and review of the building throughout the building life cycle – introduced the idea of safety case reviews.

THE DRAFT BUILDING SAFETY BILL



1. To secure the safety of people in or about building
2. To improve the standard of buildings
3. To improve the competence of people responsible for managing and overseeing building work

The draft building safety bill has been introduced for three main reasons –

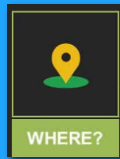
Secure the safety of people in or about buildings

To improve the standard of buildings

To improve the competence of people responsible for managing and

overseeing building work

THE DRAFT BUILDING SAFETY BILL



“HIGHER-RISK BUILDING”

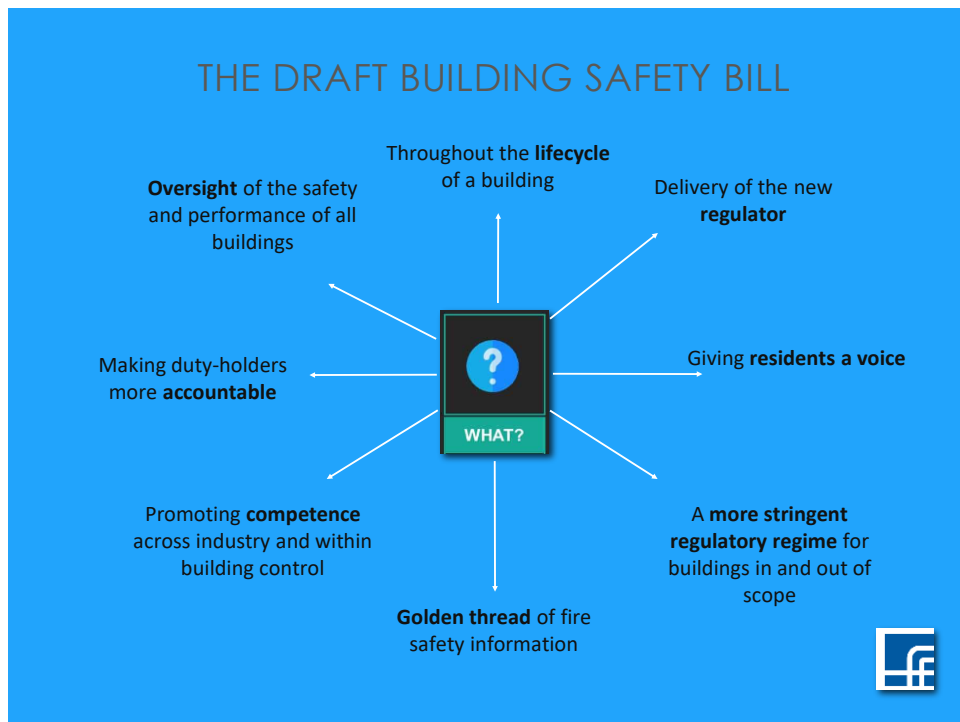
What is a higher risk building?

All multi-occupied residential buildings of 18 metres or more in height, or more than six storeys (whichever is reached first)

Or other complex buildings, from the outset but will, in due course, extend to include other premises, based on emerging risk evidence.

The draft building safety bill is left open to expand the scope of buildings which fall under the control of the building safety regulator. If the Building Safety Regulator is successful this will be extended, if risk appropriate.

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Delivery of the new regulator

The Building Safety Regulator (HSE)

Throughout the lifecycle of the building:

Gateway 1 to 3 (planning, construction, occupation)

Giving Residents a voice

Residents committee to be consulted

regarding changes to legislation

Resident engagement strategy within high rise building to promote communication

The building safety manager will be tasked with proactively engaging residents through a mandated resident engagement strategy

Residents will be kept informed, involved in decision making and understand their own safety requirements

Clear complaints procedure to the building safety manager, this may be escalated to the building safety manager and in new buildings via the new homes ombudsman

Residents encouraged to report failings

Residents responsible for maintaining their own safety items i.e electrical or gas installations within their individual property

Changes to service charge to include

building safety charge (will mean more transparency and great reconciliation)

A more stringent regulatory regime

Greater accountability for duty holders during construction phase

Greater responsibility for the 'accountable person'

Oversight of the safety case report / building assurance certificate' for each high rise building

Golden thread of information

Regulation 38 information

Ensuring this information is available in order to be granted the building assurance certificate

This document should be maintained and kept as part of the safety case report for

the building

Promoting competence

Research competence within industry and find ways to improve it

monitor incompetence

advising persons in the built environment

industry in relation to industry

competence;

facilitating improving competence

providing guidance to the public (or a section of the public)

dutyholders / regulators / residents need

to be satisfied that all involved in

construction are competent to do so

we can expect to see a greater reliance on

3rd party accreditation schemes

fire safety bill is requiring fire risk

assessors to be accredited professionals -

£1600 fine for an ex firefighter who was carrying out FRA and failed to spot failings
Transparency of disciplinary orders
against architects

Making duty-holder more accountable

Principal Designer and Principal contractor will sign off on buildings prior to occupation

Oversight of the safety and performance of all buildings

Maintain a national safety register of all high rise buildings, building assurance certificates and safety case report

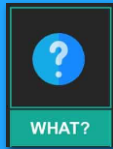
Prior to occupation, ensure compliance with building regulations prior to construction or sign off

Set up a clear inspection programme

during the construction phase

The bill includes provisions to allow for a Mandatory Occurrence Reporting System to be established – it will be compulsory to report any structural and fire safety occurrences that could cause a significant risk to life safety to the BSR. Building manager should escalate to the Accountable Person who will alert the BSR.

THE DRAFT BUILDING SAFETY BILL



“BUILDING SAFETY
REGULATOR”

The building safety regulator will be
the HSE

The Health and Safety Executive is an
established regulator

The Health and Safety Executive’s
expertise and knowledge would drive a
regime where duty-holders would be

properly held to account by a robust regulator

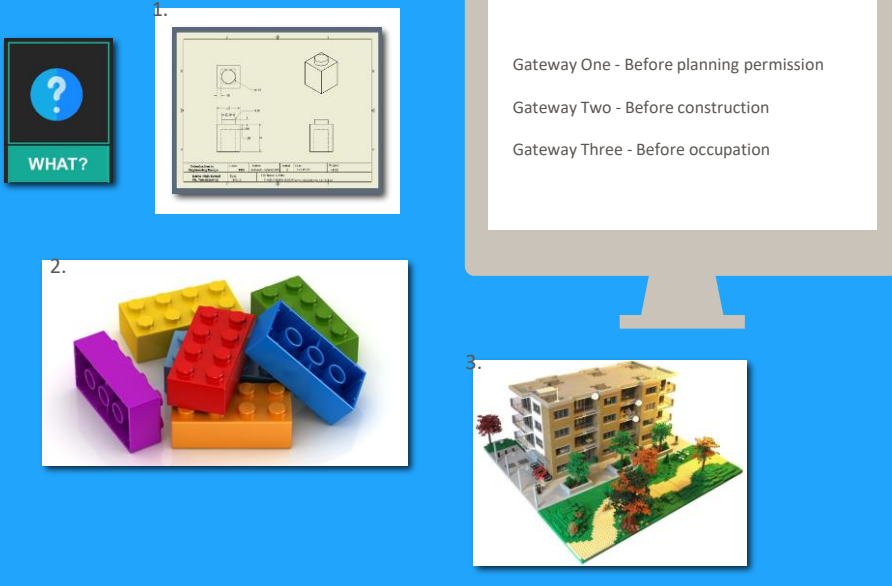
Utilise knowledge of fire service and local building control

- • Establishing a national register of buildings in scope and other national systems that will be required;
- • Ensuring that resident complaints about safety issues for buildings in scope that have been escalated to the regulator are investigated and dealt with in a timely and effective manner. This includes by working with other regulators and redress schemes;
- • Producing advice to help duty-holders

in managing the safety risks of buildings in scope to discharge that responsibility;

- • Advising on current and emerging safety risks in buildings in scope, drawing on aggregated building safety data, research, resident complaints and mandatory occurrence reports; and
- • Hosting centres of excellence to strengthen enforcement, including specialist expertise to assist with prosecuting complex cases, and to develop best practice on resident engagement.

THE DRAFT BUILDING SAFETY BILL



Lifecycle of the building

Three stages

Stage 1

- before planning
- fire statement issued (FRS access and water supply)
- to help local planning when granting planning permission
- utilise early engagement to benefit

developers

- before dutyholders are required to be in place

Stage 2

- starts prior to construction
- prove compliance, competence of principal designer, principal contractor incl. review of products
- dutyholders must be shown to be competent
- BSR responsible for HRBS
- Hard stop if not compliant
- The client must demonstrate how they will comply with building regulations
- Site inspection programme set at appropriate stages of construction
- Change control strategy to be submitted

- All changes to be recorded post full plans incl. change of materials / persons / install

Stage 3

- Hand over golden thread of info (kept upto date throughout building life cycle)
- updated as-built plans indicating any agreed variations since Gateway two;
- a complete construction control plan;
- an updated fire and emergency file; and
- a complete key dataset.
- the Client, Principal Designer and Principal Contractor will also be required to produce and co-sign a final declaration
- To hand over the prescribed documents and information (the golden thread) to the Accountable Person.

- To submit to the BSR the prescribed documents and information on the final as-built building
- The third and final gateway point (Gateway three) is before occupation of the building at the final completion certificate/final notice stage under Partial occupation will be allowed if they can prove it is safe
- This will ensure that no building is occupied before it is safe, and safety is maintained during occupation, while avoiding unnecessary delays for developers who are acting responsibly.
- Building can not be occupied until a building assurance certificate has been issued
- The Accountable Person, a new duty-holder for occupation, will be

responsible for applying for and meeting the conditions of the Building Registration Certificate following the passage of Gateway three (or for partial occupation prior to completion of the overall building).



Building safety certificate, which will have to be displayed in all high rise buildings

Greater transparency to occupants of high rise buildings

The Building Assurance Certificate is periodically reviewed;

Accountable person will need to submit a safety case report – effectively a document stating they know what the risks are and this is how they are managed

Builds redundancy in to the system, the accountable person must consider worst case scenario and how they would mitigate re. emergency call out / ATS system

Structural and fire risk assessment should feed in to the safety case report

For example the safety case report should be reviewed in light of industry changes

Existing buildings will also need to be registered. The accountable person will

need to evidence that the statutory obligations in the building are being met. It is likely that the building certificate will be accepted in place of the EWS1 form.

To register a building, the Accountable Person will be required to provide specified information such as the core details identifying the building, the details of the Accountable Person and the details of the Building Safety Manager to the Building Safety Regulator.

On granting a Building Registration Certificate, the Building Safety Regulator may attach specific conditions to it, with the Accountable Person obligated to comply or face penalties including possible criminal sanctions.

There will be three types of conditions: special conditions (to deal with specific risks) which would be imposed by the Building Safety Regulator; voluntary conditions, which have been proposed by the Accountable Person; and mandatory conditions, which will apply to all buildings within scope of the more stringent regulatory regime.

Without a valid Building Registration Certificate, a building in scope cannot legally be occupied.

In the case of non-compliance or poor performance the Building Safety Regulator will be able to review the Building Registration Certificate with a view to

adding, amending or varying the conditions.

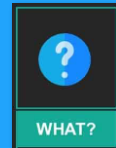
The Building Safety Regulator will have the power to require the Accountable Person to appoint a replacement Building Safety Manager where there is continued non-compliance with conditions in the Building Registration Certificate.

In exceptional circumstances, the Building Safety Regulator will have the ability to remove the Building Safety Manager and apply to the Court for the appointment of a nominated Building Safety Manager. Respondents agreed that this was a necessary measure available to the Building Safety Regulator as a last resort.

It will be mandatory for the Building Registration Certificate to be displayed in a prominent area of the common parts of the building so that it is readily accessible to residents. To ensure residents can easily identify and hold to account those responsible for the safety of their building, the Building Registration Certificate will name the Accountable Person and the Building Safety Manager and specify any conditions attached to the Building Registration Certificate.

THE DRAFT BUILDING SAFETY BILL

“IF YOU THINK YOU CAN DO IT, THAT IS *CONFIDENCE*.
IF YOU CAN DO IT, THAT IS **COMPETENCE**”



Amendments will be made to the building act 1983 to allow the building regulations to apply competency requirements

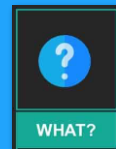
- As a minimum will mean that a more experienced person will be an appointed person for overseeing the work of somebody underneath them

- Research competence within industry and find ways to improve it
- monitor incompetence
- advising persons in the built environment industry in relation to industry competence;
- facilitating improving competence
- providing guidance to the public (or a section of the public)
- dutyholders / regulators / residents need to be satisfied that all involved in construction are competent to do so
- we can expect to see a greater reliance

on 3rd party accreditation schemes

- fire safety bill is requiring fire risk assessors to be accredited professionals - £1600 fine for an ex firefighter who was carrying out FRA and failed to spot failings
- Transparency of disciplinary orders against architects

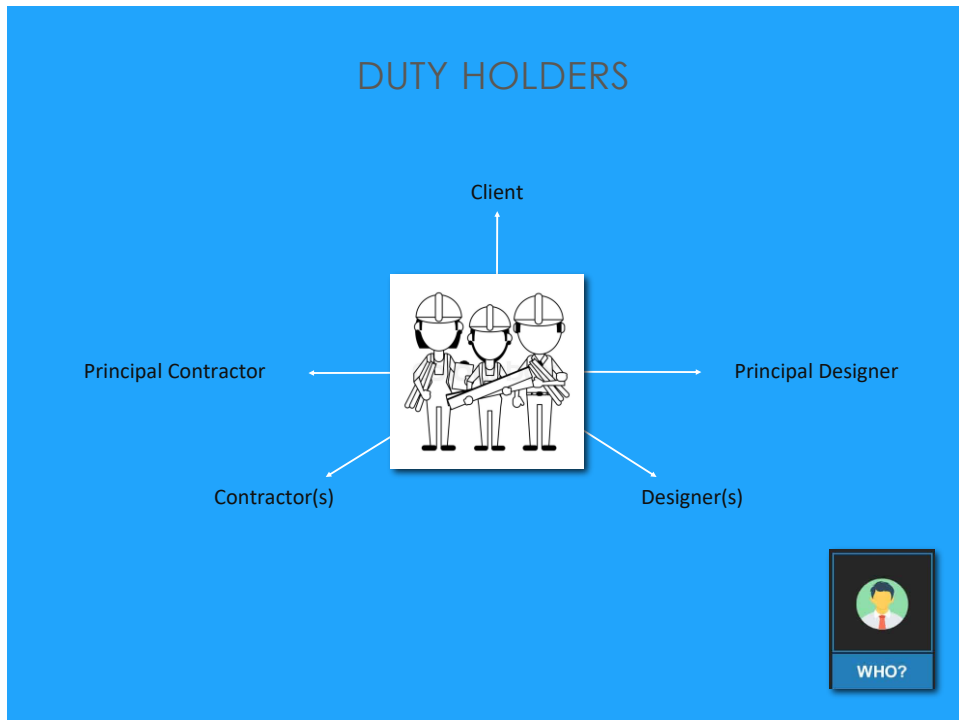
THE GOLDEN THREAD



- Simple concept of right people, right information at the right time
- Ensure buildings are safe and building safety risks are managed throughout the buildings life cycle
- Particularly in fire engineered buildings, it is important that any justifications for deviation from

current code are fully understood by the end user, fire risk assessors etc..

- Information to be held digitally
- This reiterates Regulation 38
- Digital record – as planned/ as built incl. products used
- Fire and emergency file
- Full plans
- Construction control plan



Duty-holders

- The duty-holders during the design, construction and refurbishment phases of a building will be: 17
- the Client: any person or organisation for whom a construction project is carried out as part of their business.

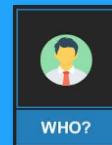
- the Principal Designer: appointed by the Client under CDM to plan, manage, monitor and coordinate the pre-construction phase, when most design work is carried out.
- the Principal Contractor: appointed by the Client under CDM to plan, manage, monitor and co-ordinate the construction phase.
- Designer(s): undertakes a trade, business or other activity in connection with which they prepare or modify a design or instruct any person under their control to prepare or modify a design.

- Contractor(s): manages or controls construction work (e.g. building, altering, maintaining or demolishing a building or structure). Anyone who manages this work or directly employs or engages construction workers is a contractor.
- All duty-holders during the design and construction phase will be required to:
 - cooperate and share information with the Building Safety Regulator;
 - ensure compliance with building regulations;
 - comply with the specific regulatory requirements imposed upon them; and
 - ensure they and the people they employ are competent to do the work

they are undertaking.

- Gateway 2 and Gateway 3; where the Client will need to demonstrate to the Building Safety Regulator 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.

THE DRAFT BUILDING SAFETY BILL

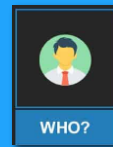
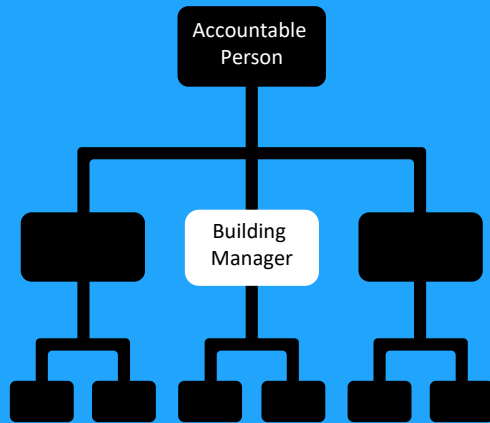


Accountable Person

- Person with legal responsibility
- Most likely person who owns the freehold / although may be more than one
- Register the building and apply for building assurance certificate
- Mandatory reporting of structural or fire issues

- Maintain the safety case report for the building
- Co-op with RP if different person
- Resident engagement strategy
- Delegate to building safety manager
- Ensure BSM is competent

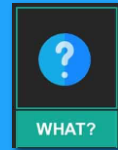
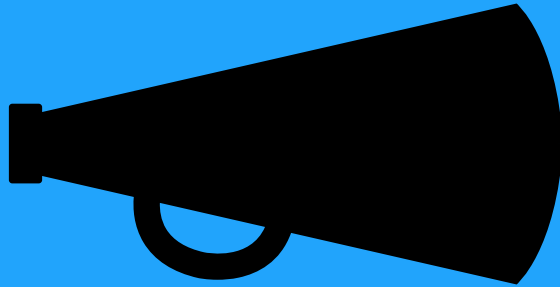
DRAFT BUILDING SAFETY BILL



- The accountable person must make adequate resources available for the building safety manager
- This may be legal entity or an individual
- Most likely to be provided by the managing agent

- Must be competent to do their role – they will be register with the BSR
- Day to day management of fire and structural safety
- Understanding of the safety case report for the building manage / maintain the building in accordance with SCR and BAC
- Report safety failing to AP
- Engage with residents – employ resident engagement strategy
- Ensure any maintenance / management employees are competent to do so

RESIDENT VOICE

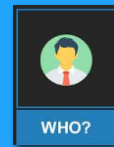
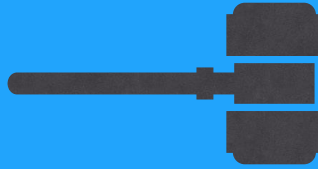


- Greater protection for residents
- Resident engagement strategy
- Residents encouraged to report safety failing in the building – first to building manager and then escalate to the building safety regulator
- Greater responsibility for own items

i.e own electrical or gas installation etc

- Doesn't specifically mention flat entrance doors but be great if this can be included for – for example making the resident responsible for maintaining the self –closing device and the fee chargeable to them if it is found to be removed
- Building safety charge – separate from service charge – greater transparency / capped / must be reasonable
- Committee to be set up – consisting of residents of high rise blocks – greater engagement prior to changing regulations

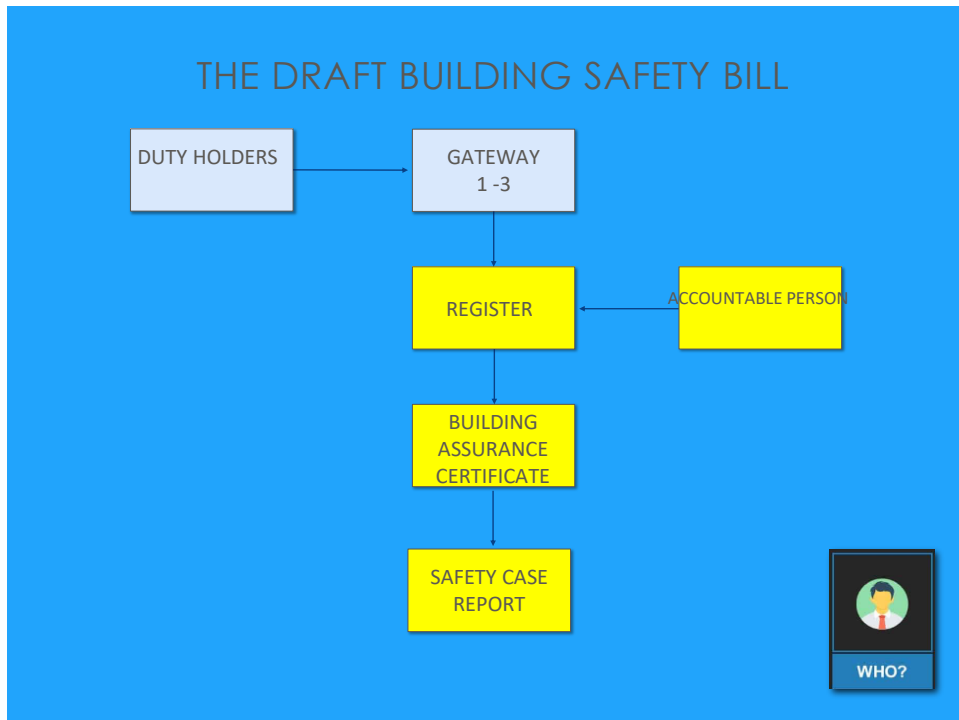
NEW HOME OMBUDSMAN



- The Bill includes provisions that allow relevant owners of new build homes to escalate complaints to the new homes ombudsman scheme
- Escalate concerns about building safety manager or accountable person
- Encourages residents to lodge a

complaint for independent review

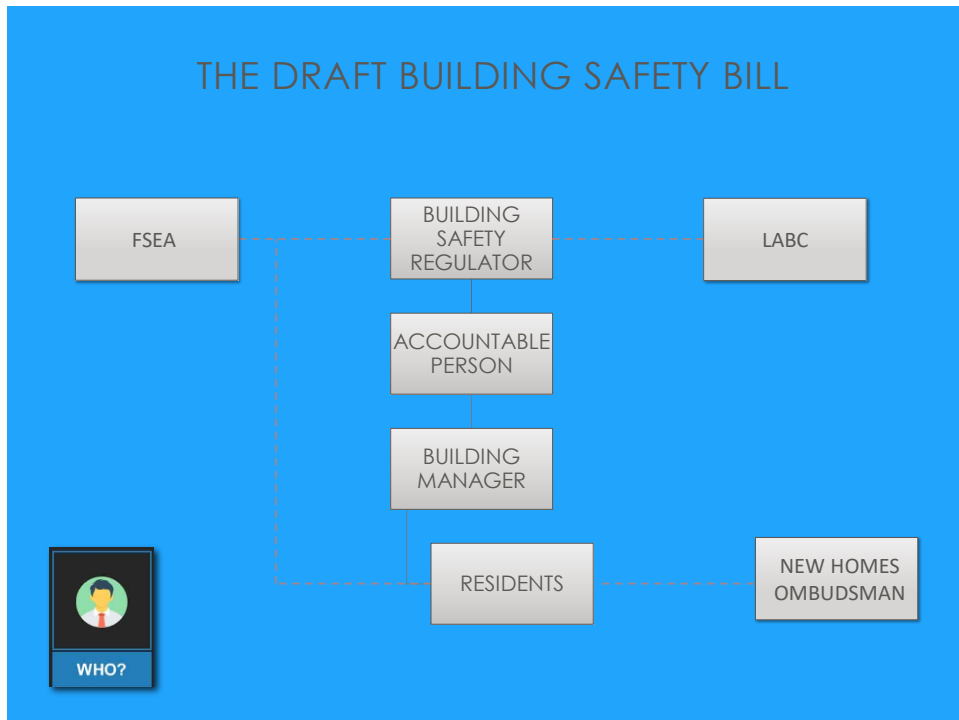
Residents of social housing will also be able to escalate a complaint after going through their landlords complaint process



- Developer is responsible for Gateway 1
- Duty holders have legal responsibility during Gateway 2 and 3
- The Accountable Person has the legal responsibility to register the building and ensure the building

assurance certificate is in place.

- Without the Building Assurance Certificate, the premises can not be occupied.
- The Accountable person must complete a safety case report, which should be regularly reviewed and feeds directly into the safety case report.



- Building Safety Regulator with responsibility for high rise buildings
- Should utilise expert knowledge of LABC and FSEA
- Accountable person has legal responsibility for the building safety post occupation

- They may delegate day-to-day duties to the building safety manager
- The building safety manager must be competent to fulfil their role and register with the BSR
- The building safety manager must report all safety failing to the BSR and proactively engage residents
- Residents will be given a voice – encouraged to report concerns to Building Safety Manager and escape via BSR
- For all new homes a new homes ombudsman will be set up for builders to register and residents to raise

complaints



THE DRAFT BUILDING SAFETY BILL



Ultimately the time to act is now, MHCLG have released consolidated guidance which relates to buildings of all heights and not just those over 18m.

The draft safety bill is primarily concerned with high risk buildings which is defined as multi-occupied residential premises over 18m or 6

storeys which ever is reached first.

At the moment buildings below 18m are still compliant however government is under consultation with regards to buildings over 11m in height (for example changes to ADB as of 26th November)

Changes to ADB as of 26th November 2020

The changes are that Approved Document B (fire safety) volumes 1 and 2019 edition are amended to include guidance that states:

Sprinkler systems in accordance with BS 9251 should be fitted throughout blocks of flats with a top storey more than 11m

above ground level; which aligns with guidance available in Scotland

Wayfinding signage for the fire and rescue service should be provided in blocks of flats with a top storey more than 11m above ground level;

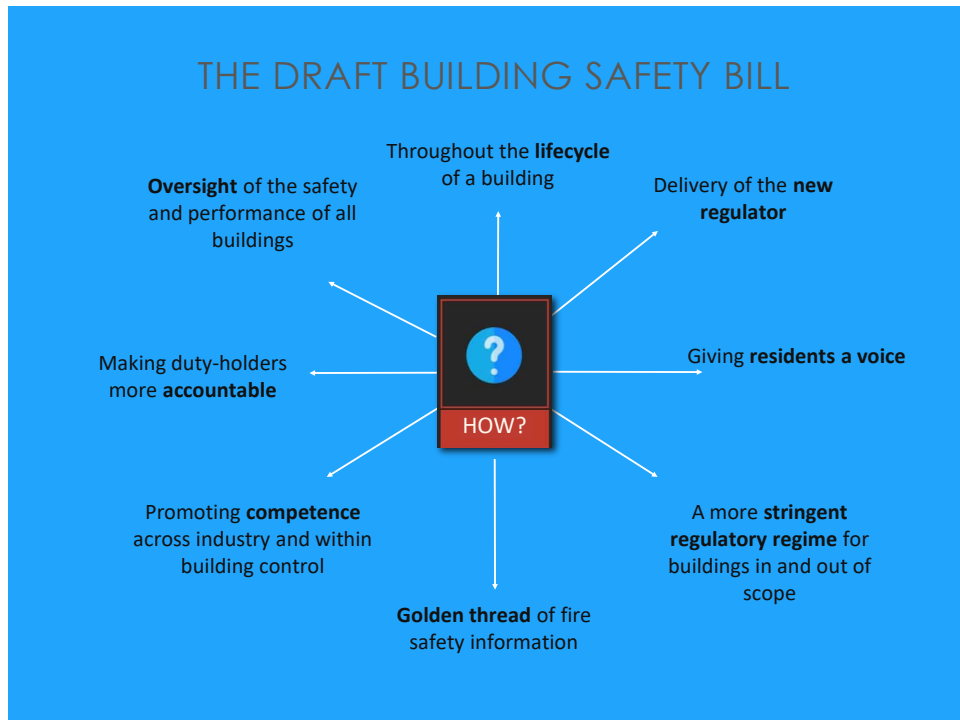
Fire Safety Bill

The government has also set out further details of the upcoming Fire Safety Bill being introduced to Parliament, which we set out in more detail in our response to the Public Inquiry Phase 1 recommendations.

This will clarify the Regulatory Reform (Fire Safety) Order 2005 – ‘the Fire Safety

Order' - requiring residential building owners to fully consider and mitigate the risks of any external wall systems and front doors to individual flats.

The changes will make it easier to enforce where building owners have not remediated unsafe ACM by complementing the powers under the Housing Act.



Recap on the changes put forward by the building safety bill and how this will be achieved:

Delivery of the new regulator

The Building Safety Regulator (HSE)

Throughout the lifecycle of the building:

Gateway 1 to 3 (planning,

construction, occupation)

Giving Residents a voice

Residents committee to be consulted regarding changes to legislation

Resident engagement strategy within high rise building to promote communication

Residents encouraged to report failings

Residents responsible for maintaining their own safety items i.e electrical or gas

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Changes to service charge to include building safety charge (will mean more transparency and great reconciliation)

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Set up a clear inspection programme during the construction phase

THE DRAFT BUILDING SAFETY BILL

“ANY
QUESTIONS?”



LUCY.WITTS@FRANKHAM.COM

FIND US ON LINKED IN FRANKHAM
RISK MANAGEMENT SERVICES

OR MYSELF LUCY WITTS

ALSO INCLUDED EMAIL ADDRESS
AT THE BOTTOM