

## Guide to the New Building Regulations System



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## Guide to the New Building Regulations System

### BACKGROUND

Following the Grenfell Tower tragedy, the Government commissioned a report by Dame Judith Hackitt that determined that the existing system was unfit for purpose, and that there was no clear line of responsibility for compliance with Building Regulations.

Dame Hackitt's report recommended clearer duty holding roles, increased competency, and a clearer design and change control process known as the Golden Thread to ensure that accurate records were being kept.

The Government responded to this by passing the Building Safety Act in 2022 and has published amendments to the Building Regulations, which will apply to all building control applications made from 1 October 2023.



### What Has Changed

The Government have created a set of new legal responsibilities and statutory roles that apply from the 1 October 2023.

You will formally become a client, designer or contractor, and must follow these legal procedures in order to proceed through the building control process and have your work approved. In addition, there must be a Principal Designer and a Principal Contractor on every job. Failure to do so will mean that we cannot process your building control application.

At the end of the job, you will be required to give a statement of compliance that the work complies with the regulations and that you have fulfilled the duties required of you. If you do not follow the procedures prescribed for your role, it will result in the project being reverted to the local authority for enforcement action.

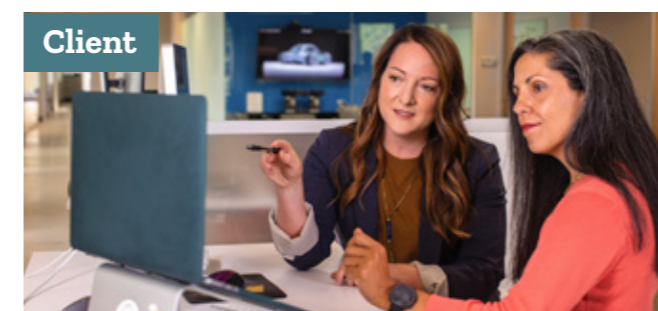
From 1 October, the onus will be on the designer and contractor to take all reasonable steps to ensure work is compliant and to be able to demonstrate and justify this. This will require that everybody involved has the necessary skills, knowledge, experience and behaviours to undertake design or construction.

You can no longer use building control as a sounding board for approval and must instead demonstrate competence to undertake the work involved. If you don't have the necessary skills, knowledge, experience and behaviours then you will be expected to decline the work or employ someone who has.

You will still be able to get a steer or gain feedback on whether a design is going to be compliant or not, including wayfinding to the best practice but won't be given solutions.

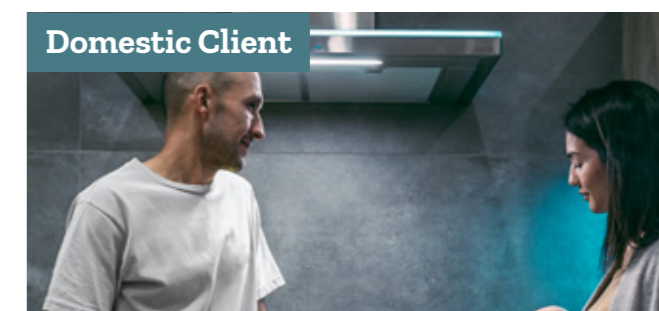
### What Are These New Roles

If you are involved with a building project, you will find that you are taking on one or more of these roles:



**Client**

A person or business for whom the project is carried out, e.g. who is paying for the work.



**Domestic Client**

Same as the client, but not for the furtherance of a client's business – e.g. a homeowner.



**Principal Designer**

The designer appointed under Reg 11D. This is typically the lead designer, e.g. Architect.



**Designer**

Any person who carries out, arranges or instructs design, e.g. structural engineer, M&E engineer, etc. but can also include the client, builder or supplier.



**Principal Contractor**

The contractor appointed under Reg 11D. This is usually the lead contractor, e.g. the site manager most in control of the work.



**Contractor**

Any person who carries out, manages or controls work e.g. subcontractors and trades such as electricians, plumbers, and can include client (but not a domestic client).

**These roles are especially important on domestic projects, as the client will be a layperson. If they don't formally appoint a Principal Designer and a Principal Contractor, these duties will default automatically to the Architect and Builder. If there is no Architect, then the Builder may find themselves becoming both Principal Contractor and Principal Designer. This will be a significant issue if the Builder does not have the competence to fulfil the role of Principal Designer.**

## What Are Your Duties?

### CLIENT

Client is any person for whom a project is carried out.

#### You must:

- ✓ Ensure suitable arrangements exist to plan, manage and monitor the building work to ensure compliance with the Building Regulations.
  - ✓ Ensure that these arrangements are maintained throughout the life of the project.
  - ✓ Take all reasonable steps to ensure any designers or contractors appointed are competent to carry out the work for which they are appointed.
  - ✓ Notify the Approved Inspector when you appoint Principal Designer and Principal Contractors, even if they are sole designers or contractors. Including:
    - Name, address, telephone number and email of these parties.
    - Details of any change in the dutyholders and the dates of their appointment.
    - A signed statement of authority that the information is, to the best of your knowledge, correct.
- ✓ Let the Approved Inspector know when the building work is commenced. See separate section on **what is deemed commencement**.
  - ✓ **When the work is complete**, you must provide notification to the Approved Inspector, which contains the following information:
    - The Client's name, address, telephone number and email address.
    - The Principal Designer's and Principal Contractor's names, addresses, telephone numbers and email addresses.
    - A statement that the building work is complete.
    - A signed statement that, to the best of your knowledge, the building work complies with the building regulations.
    - A signed statement from each Principal Designer and Principal Contractor that they have fulfilled their duties under the building regulations.

**The Approved Inspector cannot issue its final certificate without receiving these signed declarations.**

### DOMESTIC CLIENT

Domestic Client is a client for whom a project is carried out which is not in the course or furtherance of the Client's business (whether for profit or not).

#### You must:

- ✓ Ensure suitable arrangements exist to plan, manage and monitor the building work to ensure compliance with the Building Regulations.
  - ✓ Ensure that these arrangements are maintained throughout the life of the project.
  - ✓ Take all reasonable steps to ensure any designers or contractors appointed are competent to carry out the work for which they are appointed.
- However:**
- ✓ The Principal Contractor or contractor must carry out these duties.
- Unless:**
- ✓ The Client agrees that the Principal Designer can carry out these duties.

## What Are Your Duties?

### PRINCIPAL DESIGNER

Principal Designer is usually the lead designer and is appointed under Regulation 11D (principal designer and principal contractor) to perform the duties of a Principal Designer.

#### You must:

- ✓ Perform all the functions listed within the Designer role below, and, In addition, you must:
  - ✓ Plan, manage and monitor the design work during the design phase.
  - ✓ Coordinate all matters relating to design work to ensure that it will comply with the Building Regulations if building work is carried out.
  - ✓ Ensure dutyholder cooperation.
  - ✓ Ensure all designers coordinate their designs so that building work will be carried out following the designs and will comply with the Building Regulations.
  - ✓ Ensure all designers comply with their duties.
- ✓ Liaise with the Principal Contractor.
- ✓ Have regard to comments from the Principal Contractor about compliance with the Building Regulations.
- ✓ Assist the Client in providing information to designers.
- ✓ Review the arrangements of any previous Principal Designer.
- ✓ Notify Building Control in writing, where applicable, that the work is being carried out on behalf of a Domestic Client.
- ✓ Where applicable, sign the declarations as referred to above in the Client's duties **when work is complete**.

### DESIGNER

Designer means anyone (including the Client, contractor or anyone else) who, during their business, carries out design work or arranges for or instructs anyone under their control to do so.

#### You must:

- ✓ Plan, manage and monitor design work so that if the building work were carried out, it would comply with the Building Regulations.
- ✓ Cooperate with the Client, designers, and contractors to the extent that if the building work were carried out, it would comply with the Building Regulations.
- ✓ Not start any design work unless you are satisfied that the Client is aware of the duties owed by the Client.
- ✓ Carry out design work to ensure that if building work were carried out, the design would comply with the Building Regulations.
- ✓ Provide sufficient information about the building's design, construction and maintenance to allow the Client, other designers and contractors to comply with the Building Regulations.
- ✓ Consider any other design work and report any compliance concerns relating to the design compliance to the Principal Designers and Client.
- ✓ Advise the Principal Designer or the Client whether any work they are designing is Higher-Risk building work.

## What Are Your Duties?

### PRINCIPAL CONTRACTOR

Principal Contractor is usually the main contractor and is appointed under Regulation 11D (principal designer and principal contractor) to perform the duties of a Principal Contractor where there is more than one contractor.

#### You must:

- ✓ Plan, manage and monitor the building work during the construction phase.
- ✓ Coordinate matters relating to building work to ensure the building work complies with the Building Regulations.
- ✓ Ensure cooperation amongst all dutyholders.
- ✓ Ensure all building work is coordinated so that it complies with the Building Regulations.
- ✓ Ensure contractors comply with their duties.
- ✓ Liaise with the Principal Designer as required.
- ✓ Have regard to comments from the Principal Designer concerning compliance with the Building Regulations.
- ✓ Assist the Client in providing information to contractors.
- ✓ Review the arrangements of any previous Principal Contractor.
- ✓ Notify Building Control in writing, where applicable, that the work is being carried out on behalf of a Domestic Client.
- ✓ Sign the declarations as referred to above in the Client's duties **when work is complete**.

### CONTRACTOR

Contractor is any person (including the Client, but not a domestic client) who, in the course of a business, carries out, manages or controls any building work.

#### You must:

- ✓ Plan, manage and monitor the building work so as to comply with the Building Regulations.
- ✓ Cooperate with the Client, designers and contractors to the extent necessary to ensure that it would comply with the Building Regulations.
- ✓ Not start any building work unless they are satisfied that the Client is aware of the duties owed by their duties.
- ✓ Ensure the building work they are carrying out complies with the Building Regulations.
- ✓ Provide each worker under their control with appropriate supervision, information and instruction to ensure the building work complies with the Building Regulations.
- ✓ Provide sufficient information about the work to allow the Client, other designers and contractors to comply with the Building Regulations.
- ✓ Consider other building works when you are only carrying out part of the building work and report any concerns relating to compliance to the Principal Contractor.
- ✓ Provide advice to the Principal Contractor or the Client on whether any work is Higher-Risk building work.

## Changes to the Process

### Step 1 Appointment

When you first appoint us we will no longer be able to serve an Initial Notice until the client notifies us of a) the date when works will start and b) a date when sufficient work will have been carried out to deem the work as "commenced". See section on definition section of commencement. We will still be able to start the plan check process and advise you, but the deposit of the notice will come at a later stage.

### Step 2 Notify us of the Duty Holders and anticipated program of work

Before the works start the Client must give notification to the Approved Inspector when they appoint a Principal Contractor (or Contractor) or a Principal Designer (or Designer) and include:

- ✓ The name, address, telephone number and email address of the Duty holder (PC or PD or both).
- ✓ If the notice is given on behalf of the client, a signed statement from the client that they agree to the notice being given and that the information in the notice is correct.

Where the client is a Domestic Client, the relevant notices must be given to the Approved Inspector by the PC or PD and include a statement that the notice is given on behalf of a Domestic Client.

### Step 3 Notify us of work starting on site

At least 2 days' notice that the builder will be starting on site.

**NB:** If there is a change of Duty holder (PC or PD or both), the name, address, telephone number and email address of the previous Duty holder (PC or PD or both) and the date their appointment ended.

If there is a change in the description of work or any approved plans, it is important that you make us aware of the changes.

### Step 4 Commencement

You must now give separate notice when the works reach the point of commencement.

#### The definition of commenced is different for different types of work:

- For the construction of a complex building, work is regarded as commenced when the foundations supporting the building and the structure of the lowest floor level of that building are completed.
- Where the work consists of the erection or extension at ground level of a building that is not complex, work is regarded as commenced when the sub-surface structure of the building or the extension, including all foundations, basement levels and the structure of the ground floor level, is completed.
- Where the work consists of any other building projects, then work is to be regarded as commenced when the work which amounts to 15% of all the work described in the initial notice, has been completed. Where work does not involve foundation or substructure works, the client must state what they consider will amount to 15% of the work described in the Initial Notice.

**NB: After three years, the Initial Notice will automatically cease to have effect unless sufficient work has been carried out to deem the project commenced AND the client has given written notice to the Approved Inspector**

## Changes to the Process

### Step 5 Completion

The Client must give a notice of practical completion.

The notice must include:

- ✓ The name, address, telephone number and email address of the Client.
- ✓ The name, address, telephone number and email address of the Principal Contractor and the Principal Designer.
- ✓ A statement that the building work is complete.
- ✓ A statement signed by the client that, to the best of the Client's knowledge, the building work complies with the Building Regulations.
- ✓ A statement given by each Principal Contractor for the work and each Principal Designer for the work signed by the person to which the declaration relates and includes:
  - The name, address, telephone number and email address of that person
  - The dates of their appointment
  - Confirmation that they fulfilled their duties under the Building Regulations

**You should note that we will not be able to issue a Final Certificate without receiving the signed declarations.**

Additionally where Regulation 38 applies (e.g. all projects excluding single family dwellings) you must evidence that information relating to fire safety has been passed on at the end of a project. The required information includes an as-built plan showing all of the following:

- a. Escape routes – this should include exit capacity (i.e. the maximum allowable number of people for each storey and for the building).
- b. Location of fire-separating elements (including cavity barriers).
- c. Fire doors.
- d. Locations of detectors, alarm call points, control panels, sounders, fire safety signage, emergency lighting, fire mains and other firefighting equipment, and hydrants outside the building.
- e. Any sprinkler systems, including isolating valves and control equipment.
- f. Any smoke control systems, or ventilation systems with a smoke control function, including mode of operation and control systems.
- g. Any high risk areas (e.g. heating machinery).

Details should be provided of all of the following.

- a. Specifications of any fire safety equipment provided, including routine maintenance schedules.
- b. Any assumptions regarding the management of the building in the design of the fire safety arrangements.
- c. Provisions for the evacuation of disabled people

For complex buildings additional detail is required – please speak to your Building Inspector.

**Again we cannot issue a Final Certificate without receiving confirmation that Regulation 38 has been complied with.**

## Transitional Provisions

**As with all Building Regulations there is some flexibility on the application of the changes at the early stages of their implementation, called transitional provisions.**

The Amendment Regulations, which include duty holder and competence requirements does not apply where:

- ✓ An Initial Notice is given and accepted by the relevant Local Authority before 1 October 2023; and, work commences before 6 April 2024.
- ✓ For any new Initial Notices served after the 1 October 2023, the Amendment Regulations will apply.

### Higher-Risk Buildings

HRBs are defined as buildings with 7 or more storeys or have a storey height of 18m or higher and contain either at least two residential units, or, during design and construction, are a hospital or care home. HRBs are defined in detail within the Higher-Risk Buildings (Description and Supplementary Provisions) Regulations 2023.

From 1 October 2023, Building Control for alterations to existing, or the design and construction of new Higher-Risk Buildings (HRBs), can only be undertaken by the BSR. There are however some circumstances where approved inspectors may continue as the Building Control provider on HRB projects.

There is some flexibility for projects which are currently being worked on by Approved Inspectors, these have been termed 'in-flight' projects. An in-flight project is excluded from the changes to the Building Regulations and Building Control system, i.e., they may continue to use the incumbent approved inspector instead of the BSR in the following circumstances:

- ✓ An Initial Notice has been given and accepted by the relevant Local Authority before 1 October 2023.
- ✓ Work is 'substantially progressed' – this means the pouring of concrete for foundations, including piling. Or where work relates to an existing building, when the work has started.
- ✓ The Approved Inspector has registered to become a RBCA and employs a suitably qualified registered Building Inspector(s) before 6 April 2024.

**The BSR process will involve passing stringent 'gateways' at planning, design, and construction/occupation stages. We will no longer be able to process applications for HRB.**

STAGE	YOU DO	WE DO
Enquiry Stage	Request quote	Provide quote - typically within 48 hours
	Confirm Client	Provide guide to duties for client
	Confirm Scope of work	
Pre-Construction stage	Send appointment form	1. Liaise as necessary with client and other duty holders to establish the extent of information to be prepared for building regulations approvals.
	Send proposed designs	2. Review initial design proposals and provide advice to the Client and other consultants on the compliance with the Building Regulations typically within 4 week.
		3. Raise pre construction stage invoice
		4. Notify fire authorities, sewerage undertakers and the like and request any relevant concerns
When program is known	Confirm Start date	5. Give initial notice to the Local Authority typically within 1 working day of receipt.
	Confirm Commencement date	6. Review submitted design changes, request additional information or clarifications or amendments as necessary
	Confirm Duty Holders	7. Issue plan check / request for information tracker report
	Respond to tracker requests	8. Consult with fire authorities, sewerage undertakers and the like to ensure the design satisfies their requirements.
	Advise of any changes to scope	9. Issue plans certificates to the local authority if required
	Advise of any changes to duty holders	10. Issue inspection stage plan



Construction Stage	Submit notification of works starting	11. Raise invoice and commence inspections as required to satisfy ourselves of compliance with the Building Regulations.
	Arrange inspections as indicated on stage plan	12. Advise the Contractor/Client forthwith if any contraventions identified during inspection and where possible provide advice on rectification whilst on site.
	Respond to tracker requests	13. Provide copies of site inspection reports and an update on any outstanding matters for your records typically within 5-10 days of the visit being completed.
	Advise of any changes to scope	14. Review any rectifications and design changes, additional information or amendments as necessary
	Advise of any changes to duty holders	15. Update Building Control Tracker following any substantive submission
When works reach formal commencement	Submit notice of formal commencement	16. Review notice and accept/reject commencement within 4 weeks.
When works reach completion	Submit notice of completion	17. Review notice and undertake final inspection as required.
	Complete declarations for Client PD and PC	18. Review submitted completion documents and close out any remaining tracker items
	Submit Reg 38 declaration (where applicable)	19. Advise client of any outstanding items on tracker and relevant Regulation 17 deadlines.
		20. Request an extension of time if required. Additional fees will be charged for multiple requests
		21. Issue Final certificate once satisfied that all compliance has been demonstrated

**If compliance is not demonstrated, contraventions are not rectified within an agreed timescale, or the notice expires the work will be reverted to the Local Authority for enforcement.**



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