

Lockton's high level summary of the draft Building Safety Bill

The Government's draft Building Safety Bill, (the Bill) published in July 2020, makes significant amendments to the Building Act 1984 and overhauls the building control regime. It proposes a new building safety regime to apply to all higher-risk buildings and progresses the recommendations of the Hackitt report and the 'Building a Safer Future' consultation. The bill creates new roles and duties and puts greater emphasis on accountability and transparency.

Elements of the bill will apply to all buildings, but without doubt the focus is on higher-risk buildings. While secondary legislation will provide the definition of higher-risk buildings, the current proposal is that the definition will cover all multi-occupied residential buildings over 18m or more than six storeys.

The Building Safety Regulator

At the core of the proposed regulatory framework is the role of the Building Safety Regulator (BSR), which is being established by the Health and Safety Executive. Currently, the role is reasonably broad, but it is likely the BSR will have these main functions:



The review concluded that the whole system needed major reform and that residents' safety needed to be a greater priority through the entire life cycle of a building – from design and construction, through to when people are living in their homes.

*The Ministry of Housing,
Communities and Local Government*

The BSR is likely to have responsibility for all regulatory decisions under the new regime during the design, construction, refurbishment, and occupation stage of all higher-risk buildings.

It is understood that those constructing or refurbishing higher-risk buildings will be required to pass through three gateways when seeking fire and safety approval from the BSR. These are: G1 - planning, G2 - initial building control before works and G3 - final certificate.

Five categories of 'duty holder' have also been created and it appears they will have accountability and statutory responsibilities for managing risk across the design, construction, refurbishment and occupation of the building.

It is probable the bill will provide the BSR with both new and strengthened powers.

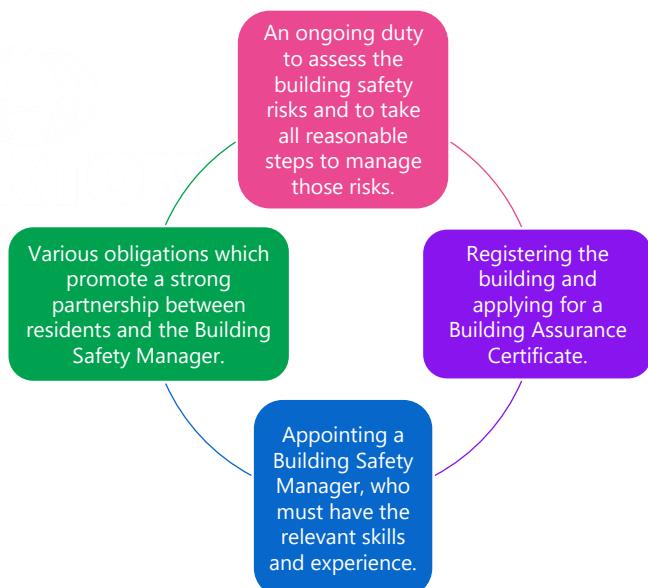


Accountable Person

The draft bill provides for an Accountable Person who is responsible for keeping residents safe, and a Building Safety Manager who will ensure compliance with the new responsibilities.

The Accountable Person will be the duty holder in occupation of the building with control of the common parts, such as the owner or leaseholder of the whole building, or the management company. The Accountable Person will be committing an offence if they fail to comply with their duties

Their duties are likely to include those in the graphic.

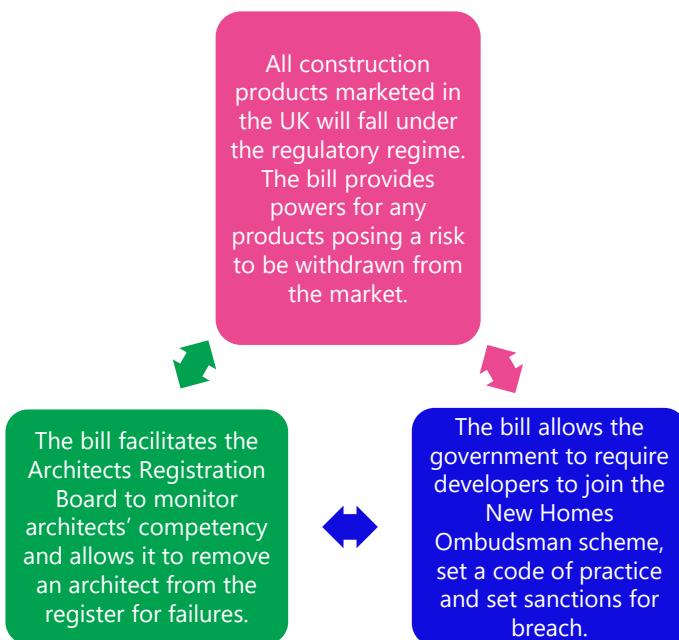


Golden thread

The draft bill includes provisions to help create a 'golden thread' of information (an accurate and up-to-date record of building data). Information must be collected during the design and construction process and, once construction is complete, the information must be handed over to the Accountable Person.

Noticeable amendments

The bill provides the basis for:



Residents

The draft bill contains legal responsibilities for residents including but not limited to:

To keep in repair and proper working order any relevant resident's items and to comply with requests made by the Accountable Person in connection with their duty to assess safety risks and take steps to prevent serious harm.

We appreciate that the draft Building Safety Bill contains a significant amount of new information and regulation. We therefore consider it prudent for all professionals in the sector to take positive action now to familiarise themselves with the proposal.

Lockton are working with various committees, engaged with the Government and considering the restrictions in Professional Indemnity policies. It is possible that the potential for making one firm or individual accountable may not account for the myriad of interfaces in the physical design and construction of the building or overlapping contractual liabilities. The interaction with the contractual matrix and liabilities of other contractors from an insurance perspective may also prove challenging. At Lockton, we have received positive feedback from our clients regarding the bill, and it appears to have support from the construction industry and its various bodies. Of course, given the scale and complexity of the proposed new regime, the consultation is likely to result in amendments.

We will continue to inform you of any developments as they arise. In the meantime, if you would like to discuss any of the issues raised in our summary, please contact constructionpii@uk.lockton.com.

