

Research Summary

Research on Building Safety Regulator Dutyholder Roles

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Research conducted by Kantar Public UK

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Contents

Background and Objectives	4
Commissioning	4
Business context	4
Research Methodology	6
Phase 1	6
Phase 2	6
Phase 3	7
Main Findings	8
Building safety context	8
Responses to the BSR proposals overall	9
Responses to the dutyholder roles	10
Responses to the gateway system	11
Responses to the golden thread	11
Perceived ideal role of HSE in this context	12
Communications	12

Background and Objectives

Commissioning

This report is a summary of research conducted by Kantar Public UK in 2020 and 2021. The research was commissioned by Insight and Service Design in the Health and Safety Executive (HSE).

The content of the report, including any opinions and/or conclusions expressed, are the views of the research agency alone and do not necessarily represent the views of HSE.

Business context

The Grenfell Tower fire saw the greatest loss of life in a residential fire since the Second World War. In the wake of this, the government commissioned an independent review of the system of building regulations and fire safety. This found that the system was not fit for purpose and set out recommendations to establish a new regulatory framework, with the aspiration to achieve culture change across the building sector.

The establishment of a new regulatory framework was a key element of these recommendations. The Health and Safety Executive (HSE) is now working with a range of public and private sector bodies to set this up.

As part of this new regime, a new Building Safety Regulator (BSR) will be established within HSE. The new BSR aims to shift the sector firmly towards an outcomes-based framework for building safety, in which professionals must demonstrate competence and understand their responsibilities to deliver and maintain safety. Building safety will be considered across the entire lifecycle of a building, including in its design, construction and occupation phases.

Within this new regime, new dutyholder roles will be designated for building development and management professionals who work with high rise buildings (HRB) Key roles are those of:

- Client (the HRB client at pre-design, design and construction stages).
- Principal Designer (who 'owns' the design of a HRB and may be an architect or other specialist building designer, depending on the context).
- Principal Contractor (who 'owns' the construction of a HRB).
- Accountable Person (who owns the occupied HRB).

- Building Safety Manager (who manages the occupied HRB).

The roles of Client, Principal Designer and Principal Contractor are familiar to building development professionals, as these currently exist in the context of the Construction (Design and Management) Regulations (CDM Regulations). However, the Accountable Person and Building Safety Manager are new roles to the sector. The Principal Contractor role was not a focus for this research, given HSE's prior knowledge and understanding of the construction sector; although this group was included in the sample, it is not a focus of reporting.

The audiences who will take on these roles are new to HSE, so research was commissioned to provide a deep contextual understanding of their attitudes and behaviours in relation to building safety. Specific research objectives were to explore:

- Current working practices.
- Attitudes and practices around building safety.
- Barriers and enablers to good practice.
- Attitudes towards, and preparedness for BSR.
- Potential points of influence and contact.

The main output of this work was a set of typologies to help inform effective communication and operational approaches for these dutyholder groups.

Research Methodology

The research was qualitative in nature, comprising 143 in-depth interviews, carried out over three phases.

Phase 1

Phase 1 comprised 25 one-hour-long online in-depth interviews with key stakeholders, a document review and secondary analysis on the size and composition of dutyholder groups.

Participants were:

- 5 government stakeholders.
- 6 Principal Designer stakeholders.
- 12 Client/Accountable Person/ Building Safety Manager stakeholders.
- 2 stakeholders from adjacent groups, representing bodies focused on industry standards and products.

Phase 2

Phase 2 involved 107 online interviews with building professionals who are likely to become BSR dutyholders. Participants included:

- 20 clients.
- 20 architects and designers.
- 12 contractors.
- 20 building owners/operators.
- 20 building managers.
- 6 building control specialists.
- 6 legal and insurance specialists.
- 3 resident representatives.

Although not a focus of reporting, contractors were included to obtain a holistic understanding of all parties contributing to the design, construction and development of HRBs and to help understand interactions between parties from all perspectives.

Phase 3

Phase 3 comprised 11 ninety-minute online in-depth interviews with participants recalled from Phase 2. Participants were:

- 1 x social sector owner/operator.
- 2 x private sector owners/operators.
- 2 x architects and designers.
- 1 contractor.
- 1 asset manager and managing agent.
- 1 funder and subsidiary company.
- 1 resident management company.
- 1 social sector building manager.
- 1 private sector building manager.

Main Findings

Building safety context

The development and management of HRBs has inherent complexities as they are created within systems involving many people, organisations, relationships and interactions. The organisations that develop and manage HRBs are also very diverse and may not even necessarily recognise that they operate within the same sector.

The Grenfell Tower fire highlighted this complexity and increased attention in the sector on building safety practices. However, the resulting focus on ACM cladding has raised fundamental issues around how risk can be quantified, what action is proportionate, as well as how the costs of remediation can be distributed fairly.

Building professionals in the research reported some cultural shift already happening in the sector, such as a stronger focus on better development and construction practices, greater awareness of the state of existing buildings and higher levels of confidence in challenging poor practice. However, it was also acknowledged that there is an ongoing need for change.

Collaboration between different parties, ideally as early as possible within a project timeline, was consistently highlighted as key to safe and effective working. However, there are many factors which were highlighted as inhibiting better collaboration, including:

- The complexity of projects and number of different entities that may be involved.
- A fear of blame or a desire to push accountability for risks onto others.
- Competitiveness and/or antagonism between different entities, especially between designers and contractors.
- Procurement practices, especially the prevalent 'Design and Build' model, which is perceived to reduce designers' control at construction stage.

Building professionals also identified broader sector issues that feed into poor building safety practice:

- General lack of independent oversight of construction.
- Lack of clarity over building regulations.
- Lack of information/consistency around building material.
- Skills shortages and competence limitations across the workforce, especially among construction subcontractors.

Responses to the BSR proposals overall

In this fragmented context, there was broad agreement in principle with the need for greater regulation to improve building safety standards and processes, drive accountability and ensure that the full building lifecycle is considered in relation to building safety.

While a great deal of goodwill to make BSR work was expressed, concerns were also highlighted about what this will mean in practice in terms of how BSR will be implemented and operationalised, how this will affect organisations, and who will pay for the changes to practice. Organisations understood that the introduction of BSR will affect their structures and job roles. However, the lack of certainty around how this may manifest in practice prompted anxiety among some.

Building development professional sector bodies were particularly worried that the proposals could increase legislative complexity, if the new system is layered on top of existing legislation and only relates to the small proportion of buildings that constitute HRBs.

Challenges of adaptation were expected to be unequally spread across the audience. Clients, designers and contractors believed that they may find elements of the proposals difficult to implement but were relatively familiar with the dutyholder roles from the CDM Regulations and recognised that they will be starting from a 'blank sheet' when developing new builds, in that the new processes can be adopted at the beginning of the building cycle, which will help to establish good practice from the inception of a project.

By contrast, building owners and managers reported feeling likely to face many more issues in complying. The roles will be new for them and will require them to conceive of their buildings very differently from how they do so now. They will also have much less control in this context, as they often described their current portfolios as including existing buildings that are old, in poor condition and/or having been passed onto them through different hands over time. Further, some private sector building owners and managers exhibited lower levels of awareness and understanding of building safety issues relative to building development professionals.

For building owners and managers, a key issue will be whether BSR will be applied to existing stock and what the implications of this will be for them, in terms of which elements of their portfolio BSR will apply to, what information/structures will be needed to comply and how the roles/requirements (especially the golden thread and safety case) can be resourced. Given that many building owners and managers described facing resource restrictions, they sometimes felt that it will be inevitable that any costs incurred will be passed onto residents.

Responses to the dutyholder roles

While the concept of improving accountability in the sector was well received, building professionals had questions around the detail of the proposed roles, including: the extent to which each role can be realistically taken on by an individual versus corporately; what the role would entail in practice, and hence what professionals are specifically accountable for; how the different roles relate to each other; and how the future BSR roles compare with the current CDM roles (for those familiar with them).

Each role presented somewhat different issues to building professionals, and those roles that do not currently exist raised more fundamental questions for future dutyholders than the others, as described below.

Client

The key issue will be ensuring that those in this role fully understand their responsibilities and the specifics of their duties. Some clients wondered how the role might be managed in cases in which there are multiple client partners/in different contract types, although this issue is experienced and addressed within the current CDM Regulations.

Principal Designer

A key concern for those likely to take on this role is how it relates to the Principal Contractor in the context of Design and Build contracts. Principal Designers expressed experiencing feelings of disempowerment within the construction stage in a Design and Build contract, as in this situation the Principal Contractor has the primary relationship with the client and so the Principal Designer may feel that they have limited ability to interact with the HRB or to influence decisions. Many wondered how a Principal Designer would 'ensure' building sign off at Gateway 3 in this context.

Principal Designers were also worried about whether they will be able to obtain the Professional Indemnity insurance they would need to enable them sign buildings off, in the context of recent difficulties in obtaining appropriate levels of cover for the design of HRBs.

Accountable Person

Building owners wanted to know much more detail about the Accountable Person role, to ascertain expectations for the role and understand where it might sit within their organisational structure. Many building owners felt that it will be difficult in their current context to identify an individual who has the appropriate status to take on accountability, but also sufficient technical understanding of the issues involved.

Building Safety Manager

This role raised the most uncertainty, given that it does not currently exist in sector business models. There were significant concerns around how realistic it will be to find people who have the broad technical and engagement skills required for the role. At a fundamental level, building owners and managers were also somewhat unclear as to whether the Building Safety Manager is essentially a 'supervisory'/'oversight' role or a 'technical'/'operational' role and whether it would be acceptable for a team to supply the suite of skills, or whether these would need to be provided by an individual.

Responses to the gateway system

Building professionals wanted to know more about gateways and how they will work in practice, including the extent to which this will establish an extra process on top of existing sign-off processes.

Clients were particularly interested in understanding the likely potential impact of the gateways on their projects, such as whether these will prolong the development process and who would be liable for costs if delays were incurred.

Designers wanted to clarify what it will mean for their practice, especially how gateway 2 will be managed, in the context of not all design work having been completed by this point in the building development process.

Local authorities explained that, as they may have different roles in this context, such as that of developer, building manager and provider of planning/building control services in a local area, consideration of the gateways raised the issue of how they will resource all these areas of activity in the new regime.

Owners and managers of existing buildings wanted to know to what extent the gateways are relevant to them, such as whether they will need to go through any gateway processes in relation to refurbishments/significant building works.

Responses to the golden thread

The golden thread was positively received but was perceived to have less obvious relevance to some organisations and roles than others.

Clients and designers welcomed a focus on digital data capture throughout the development process. However, they believed that there will be challenges to the sector adopting and using relevant technology.

Many practical concerns emerged from all building professionals around: what formats/ software/platforms will be required; who will own/oversee/administer/access/pay for/train staff on the new system(s); and what information will need to be captured as part of this activity.

Many expected the costs of meeting the requirements to be high, so it will be important to be clear about the role of the golden thread, its uses and benefits, and to offer some level of support in helping the wider sector, especially smaller organisations, to adopt the technology.

Perceived ideal role of HSE in this context

Building professionals recognised the disjointedness of the sector and so conceptualised HSE's ideal role as an active collaborator, manifesting the following behaviours:

- Engaging with the sector, listening and acknowledging organisations' issues.
- Consulting with sector experts on the details of how processes could work in practice – and widely communicating about this.
- Facilitating and modelling collaboration.
- Drawing together best practice to ensure organisations understand 'what good looks like'.
- Helping organisations understand their risks and make judgements on these.

Communications

There was a sense of an 'information vacuum' around the detailed considerations of BSR and many organisations felt as though they are being asked to act in the absence of firm direction.

Organisations were generally aware of the status of the legislation, so were sympathetic to HSE's lack of ability to specify greater detail about future processes. However, this lack of clarity created concerns around uncertainty for some organisations. A stronger presence of BSR as an entity, and details of its vision and how it will be constituted, may help to reassure organisations throughout the process of development and implementation.

There was support for BSR to be firm and show leadership in the sector, and it was felt that HSE's reputation as an enforcer supports this well. A hard-hitting tone was believed to be appropriate when there needs to be a focus on perceived poor building safety practice, especially around the behaviour of the construction industry. However, a more empathetic, understanding, less judgemental tone was considered

more appropriate when addressing smaller organisations in the building management sector.

It was assumed that messaging will develop over time, starting with relationship building and generic messages, leading on to more detailed content, as follows:

- In the short term, engaging and developing sector relationships and communicating general messages that are unlikely to change.
- In the medium term, communicating more detailed information on changes in the development process for new builds.
- In the longer term, communicating changes for existing buildings.

Organisations specified requiring an 18-24-month lead-in time to plan for the implementation of any key changes.

There was consistent demand for an online 'library' resource, that includes overarching information relevant to all, such as a roadmap/plan for the development of BSR and links to key primary sources, as well as more tailored information structured by organisational type.

Online participatory formats were also frequently requested, including:

- Webinars across a range of different topics, including general introductions to BSR, as well as more focused sessions, tailored to organisational type/specific audience.
- Online forums, as a means of empowering organisations to learn from each other, particularly to support the private sector in interacting with and learning from public sector organisations that are more advanced in this arena.

Differentiating the audience

The two key dimensions underlying attitudes to building safety emerged, sensitivity to risk and resource availability. Four key attitudes towards BSR appeared, with the following related attributes and opportunities, as presented in Table 2 below.

Attitude	Risk sensitivity/ resource availability	Barriers to good building safety practice	Enablers to good building safety practice	Key communication opportunity for BSR
Optimistic and welcoming	Highly sensitive to risk and have the resources to commit to the proposals.	Reliance on supply chain skills. Ability to adapt to change quickly (social sector organisations).	Strong resourcing. Focus on the need for compliance.	Capitalising on the enthusiasm of this type to engage with BSR and lead or model change around building safety.
Open but anxious	Sensitive to risk but may lack the resources or power to act as they would ideally like.	Resource limitations. Breadth of portfolio (owners). Relationships with contractors (designers).	Focus on the need for compliance. External resources available. Support and learning from other organisations or sector bodies.	Demonstrating understanding of the sector and the likely challenging position these organisations will find themselves in.
Aware but constrained	Somewhat risk aware but highly resource constrained and reliant on others for often limited funding.	Limitations on organisation's remit. Limited competences or vague understanding of compliance needs.	Desire to 'do the right thing'. External resources available. Clear instructions as to requirements.	Providing clarity in the context of uncertainty or confusion.
Unaware and unconcerned	Small scale organisations that are uninformed	Lack of understanding of duties, or reliance on	Support from external intermediaries.	Introducing this group to their role and

Attitude	Risk sensitivity/ resource availability	Barriers to good building safety practice	Enablers to good building safety practice	Key communication opportunity for BSR
	around the risks of their position, with limited resources.	others for this. Complacency.	Clear instructions as to requirements.	responsibilities.

Organisational types

While there were four basic attitudes to BSR, building professionals' organisational drivers, structures and channels varied significantly, so those with the same basic attitude could have very different communication content and channel needs/preferences. As such, a range of organisational types also emerged, as highlighted in the table below.

Organisation type	Attitudes represented	Key dutyholder roles
<p>Integrated development companies.</p> <p>Horizontally integrated businesses that develop, design, construct and often manage buildings across commercial, residential and public sectors.</p>	Optimistic and welcoming.	Client. Accountable Person. Building Safety Manager.
<p>Social sector organisations.</p> <p>Housing associations, local authorities and ALMOs that own and operate social housing.</p>	Optimistic and welcoming. Open but anxious.	Client. Accountable Person. Building Safety Manager.
<p>Start-ups with institutional funding.</p> <p>Small, young companies that have acquired institutional funding, often developing and operating buildings.</p>	Optimistic and welcoming.	Client. Principal Designer. Accountable Person. Building Safety Manager.
<p>Small scale developers.</p> <p>Small companies (often micro-companies) that develop buildings, within this some HRBs.</p>	Unaware and unconcerned.	Client.
<p>Resident Management Companies.</p> <p>Companies set up by</p>	Aware but constrained. Unaware and unconcerned.	Accountable Person. Building Safety Manager.

Organisation type	Attitudes represented	Key dutyholder roles
leaseholders that take over management of communal areas of their building from the freeholder.		
Asset managers. Property investment companies that buy and manage property or oversee property management via a managing agent.	Optimistic and welcoming. Open but anxious.	Accountable Person. Building Safety Manager.
Managing agents. Agents who manage properties on behalf of clients, including large national and smaller high street companies.	Open but anxious. Aware but constrained.	Accountable Person. Building Safety Manager.
Architects. Designers of HRBs for public and private sector clients	Open but anxious.	Principal Designer.
Designers. Providers of specialist design services to architects and contractors	Open but anxious.	Principal Designer.
Fire engineers. Providers of specialist design services to developers, architects, contractors and building owners/managers, with a focus on fire safety	Open but anxious.	Not applicable.



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