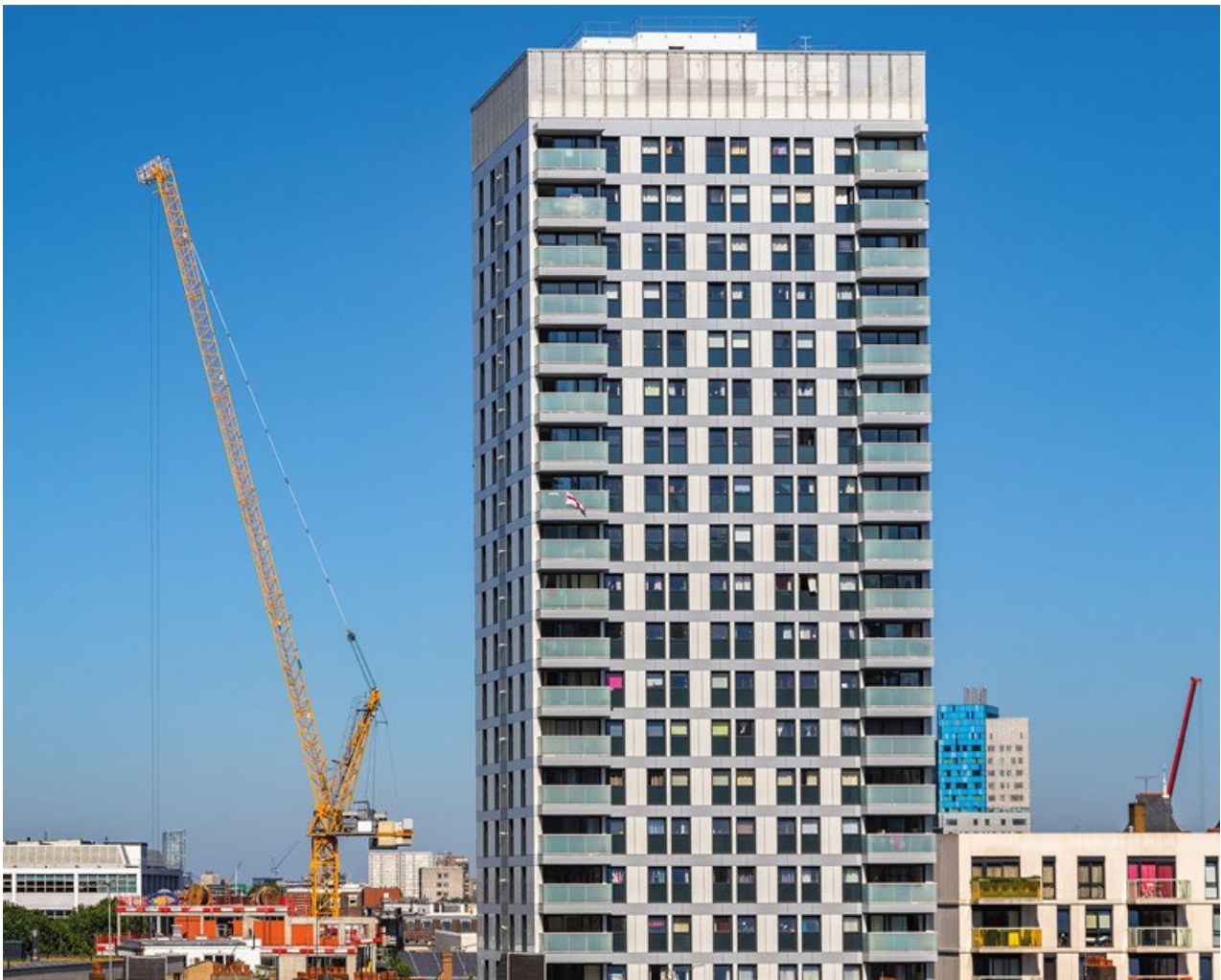


Summary Report

Building Safety Regulator Underpinning Insight: Building Control

Insight and Service Design Team, Health and Safety Executive
Research conducted by Kantar Public

November 2022



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Commissioning

This report is a summary of research conducted by Kantar Public between November 2021 and April 2022. The research was commissioned by the 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 agency alone and do not necessarily represent the views of the HSE.

Background and objectives

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, Government has proposed significant changes to how the building control profession operates, including:

- The Building Safety Regulator (BSR) becoming the Building Control Authority for High Rise Buildings (HRBs)
- Oversight of the performance of all building control bodies (BCBs) against a set of 'Operational Standards Rules' (OSRs), underpinned by Key Performance Indicators (KPIs)
- Activity to unify the profession, including registration and development of a competence framework for building control professionals

HSE therefore commissioned underpinning research to explore the current operation and practices of the profession, views on the proposed developments, and suggestions for how to manage the transition to the new regime.

Research methodology

Phase one

Phase one involved 18 one-hour-long online in-depth interviews with key stakeholders and a document review.

Participants were:

- 5 internal HSE stakeholders
- 12 external stakeholders, representing key building control sector bodies.

Phase two

Phase two comprised 52 interviews, lasting between 60 and 90 minutes.

Participants were:

- 25 local authority building control professionals (of whom 10 were managers, 5 were both managers and frontline professionals and 10 were solely frontline professionals)
- 20 Approved Inspector building control professionals (of whom 10 were managers and 10 were frontline professionals)
- 2 local authority directors overseeing building control in their authority
- 2 developers, 2 construction directors and 1 national housebuilder, all using building control services.

Main findings

Building control system and working context

The building control professionals interviewed perceived the profession to be fragmented, due to the fundamental split in the regulatory framework between local authority (public sector) and Approved Inspector (private sector) building control professionals. This meant that public and private sector BCBs had different responsibilities and powers, with different oversight and performance management arrangements for each. As a result of this, public and private sectors had developed different cultures.

Local authority building control professionals were working in a local government context, had limited power over their budgets and therefore less control over the size of their teams, pay and promotion structures. They were more likely to be working in generalist rather than specialist teams, as they had a duty to take on all work that was brought to them. Being based in a local authority meant that their work reflected the nature of the buildings that were developed locally. Overall, these teams tended to feel they had a strong sense of public service and objectivity, and generally perceived themselves as independent regulators.

By contrast, Approved Inspectors had much greater control over their operations, in terms of the type of work they took on, their budgets and strategy, and their size, specialism and pay and promotion structures. They were able to offer their services regionally or nationally, and sometimes in relation to a specific type of building, such as complex high-rise developments. They were commercially minded and tended to perceive themselves as consultants whose job was to help advise clients, especially in the early stages of complex building development.

Beyond this cultural split, another key issue that emerged was resourcing. This was an over-riding concern, with most professionals believing the profession to be generally under-resourced and under-valued. Variations in resourcing levels – especially team sizes – emerged across the sample with Approved Inspectors generally having larger teams than local authorities, although there was variation within each part of the profession. More information on the different clusters of organisations that emerged within the research can be found towards the end of this document.

Some local authorities had developed shared services, with resources pooled between different authorities, and seemed to be among the most resilient building control bodies in the public sector. They tended to have more staff to draw on and hence more flexibility when responding to client needs.

Different sector bodies, representing different parts of the profession, provided different services, qualifications and continuing professional development. The bodies did not necessarily communicate with each other directly, leading to an inconsistent approach to developing, supporting, or communicating with the profession.

Building control procedure and practice

There was a consensus among the professionals interviewed that, within the parameters of the standard building control process, every project was different and not all risks could feasibly be checked. This means that professionals had to adopt a risk-based approach to their work, where they continually made judgements about their approach, according to:

- The overall risk of a project (eg its level of complexity)
- The risk profile of the dutyholders involved (eg based on perceived competence, previous experiences, known insurance cover)
- Possible negative outcomes if something were to go wrong.

Fire and structural safety risks tended to be prioritised, but other risks also were also perceived as relevant, depending on the building – eg ventilation or damp.

Professionals found it difficult to describe what a good building control outcome looked like, beyond the delivery of a safe building. However, there was some agreement about the key elements that needed to be in place to deliver this: appropriate organisational structures and resourcing, professional competence and integrity, and good building control process management.

Under-resourcing of teams was consistently raised as a key risk to good practice – and therefore good outcomes. This was a particular concern for local authorities, although some Approved Inspector professionals described experiencing these pressures too, which they agreed could result in:

- Excessive workloads, causing professionals to miss important details
- Less time being spent on checking plans or inspecting sites
- Junior staff signing off work beyond their level of competence.

Regulation and performance management

Professionals reported using a range of measures to regulate dutyholders but did not classify the majority of these as ‘enforcement’.

Key measures that were mentioned included:

- Pre-application conversations or advice with dutyholders
- Requests for further information on plans or activity on site

- Dialogue, communication, education, and encouragement on site, focusing on the benefits of compliance with dutyholders (eg better fire safety)
- Reminding dutyholders to consider their insurance cover
- Setting out notice periods to fix any issues identified
- The threat of cancelling notices or withholding final or completion certificates.

Professionals viewed these measures as being the most successful ways of ensuring building safety, as they aimed to maintain communication with dutyholders and enable dutyholders to address any building safety issues identified.

‘Formal’ enforcement routes – such as prosecution – were reportedly used as a last resort, generally because their use was believed to be unlikely to result in dutyholders addressing building safety issues. In most cases, formal enforcement was perceived to be necessary following a breakdown in the relationship between a BCB and the dutyholder. Although local authority teams would pursue prosecution if they judged it necessary, they were conscious of the high financial costs of doing so.

Performance measurement and management practices varied. Approved Inspectors and better resourced local authorities were the organisations most focused on performance measurement and management overall. Approved Inspectors had generally set up systems enabling them to provide data to CICAIR¹ as part of their licensing agreement. Local authorities that considered themselves to be under-resourced were much less likely to focus on performance measurement or management.

Approaches to performance measurement generally focussed on quantitative, process-related elements, such as recording the number of applications received, number of notices or approvals issued, number of inspections made and number of complaints. Some building control bodies also collected information on whether key activities had been completed within a specified timeframe.

Some larger Approved Inspectors appeared to be expanding their approach to performance measurement and management, including developing:

- Performance management plans, such as individual annual competence audits or periodic performance and development reviews
- Systems that included greater quality assurance – eg protocols for issuing final certificates, so that no one could sign off their own work, or IT programs that imposed criteria to ensure appropriate sign off on projects
- A focus on technical audits – eg an internal audit team sampling projects on an ongoing basis.

¹ Construction Industry Council Approved Inspectors Register

Professional development

Professionals described various barriers that they believed prevent people from entering the building control profession. These included a low profile, a poor reputation compared with other construction professions and the limited financial rewards available. These barriers were seen to be at odds with the relative breadth and depth of the technical skillset required, and the high level of responsibility held by building control professionals.

In this context, professionals were keen for there to be better communication of the benefits of the profession to help attract new professionals. These included working in the built environment, the variety of work on offer and a strong focus on public safety and protection.

Professionals suggested that there could be a more systematic, structured approach developed to help recruit and retain more professionals, elements of which might include:

- More defined pathways into the profession, supported by building control-specific qualifications or building control modules within general construction-based qualifications
- Provision of more defined pathways through organisations (especially local authorities), such as structured levels or grades and specialisms
- Provision of structured support from professionals' entry into the profession – eg apprenticeship models and ongoing training and assessment
- Development of experience via mentoring and shadowing opportunities, in which juniors could pick up tacit knowledge from seniors
- A focus on creating workplaces that provided a good work-life balance and prioritised training and development.

Financial rewards were cited as a key issue for staff retention, especially in local authority settings.

Many professionals emphasised the importance of competence in good building control practice. However, there were concerns that currently this is poorly defined, at an organisational level, as well as the precise knowledge, experience and behaviours that individuals would be expected to exhibit at different levels of the profession.

Professionals' own definitions of competence tended to combine detailed knowledge of the regulations and experience of how to apply it across a range of different contexts.

Professionals repeatedly raised the issue that different sector bodies have different competence frameworks, that are inconsistent with each other, and change over time.

Responses to the Building Safety Bill

Professionals responded positively to many of the reforms proposed in the Building Safety Bill, although they wanted to know in much more detail what this would mean for them and their day-to-day practice.

The absence of direct, detailed communication to the profession about future changes had to some extent bred fear, anxiety, and confusion, giving rise to different interpretations of the implications.

Key questions that professionals spontaneously raised and focused on included:

- Whether the proposals would lead to a two-tier building control system, at least in the short term, in which HRBs will be prioritised at the expense of other buildings.
- The detail of local authority and Approved Inspector roles in relation to HRBs, in practice.
- What registration would entail and how this would be rolled out.
- The implications for individual professionals' responsibility and accountability.

There was support for greater oversight of the profession and, within this, the development of OSRs and KPIs to help set standards and drive performance. While it was unclear to professionals what KPIs should look like, there was agreement that they should ideally be developed in consultation with the profession.

There were differences in response to the oversight proposals across the research sample. Approved Inspectors were used to providing data to CICAIR and so believed that they would be able to adapt to any new model relatively easily. However, local authorities, especially the less well-resourced, tended to fear that they would not be able to meet performance measurement requirements, leading to them being sanctioned.

Professionals welcomed the concept of registration, anticipating that this would raise standards and the status of the profession. However, there was a widespread assumption that exams would be introduced for all, which prompted a large amount of anxiety.

In this context, professionals suggested alternative methods for demonstrating competence, including:

- Grandfather rights during a 5-year window, within which specified training needs to be completed
- Individuals having their CV validated by a line manager, referee, or external assessor
- Interviews in which a professional can talk through case studies they have worked on, so that their thought processes and decision making in those situations can be examined

- Individuals making a commitment to align with one of the sector bodies and work towards chartership
- Structured specified training among those already chartered.

The removal of dutyholder choice over building control provider for HRBs was accepted, but both local authorities and Approved Inspectors wanted to know more about how this would work in practice, enabling them to plan ahead.

Local authorities generally welcomed the plans around removal of choice, although there were concerns about whether this could overwhelm the less well-resourced authorities with work, or negatively impact established working arrangements.

Approved Inspectors were understandably more resistant to this proposal, believing this could remove a core element of their work. Some Approved Inspectors believed that they would be likely to change their business model or leave the HRB market if their access was restricted, which they argued could be counterproductive, reducing capacity in this segment.

Communication insight

There were varied opinions as to whether communication activity should begin before greater certainty has been established around the Bill and its reforms. Some professionals were concerned that any information communicated before the Bill is enacted would inevitably be speculative or interpretive, and so not necessarily helpful.

However, the majority felt that there would be value in BSR establishing clear routes of communication with the profession, via sector bodies and direct to professionals. They believed that this would create a useful channel for providing greater detail about the changes and their implications for both individuals and organisations, as they emerged.

Professionals were also keen to know more about BSR's broad vision for the built environment, and the implications for building control. However, they were most focused on understanding more about the operationalisation of the Bill in the longer term.

The different contexts in which professionals operated influenced their communication preferences. As might be expected, organisation leaders were focused on the strategic vision created by the Bill for the built environment, BSR's role in this, and what this will mean for their organisations. Team leaders were much more interested in the details of how their day-to-day working practices may have to change in relation to managing their teams. Frontline professionals concentrated on the details of what the changes might mean for their careers, especially registration.

Specifically, local authority professionals believed that a direct channel of communication would need to be set up between BSR and their Heads of Service, or ideally Chief Executives, to ensure that they understand the implications of the reforms.

Organisational type summary

Several types of organisations were identified across the research, distinguished by the sector each organisation belonged to and its relative resourcing levels.

Metropolitan local authority

In these larger local authorities, which tended to be city councils or inner London boroughs, HRB work took up a large proportion of their portfolios. Professionals working in these organisations generally perceived there to be adequate resourcing for their local needs. When responding to the Building Safety Bill proposals, they were positive overall but conscious of possible future changes to their HRB workload.

Urban local authority

Smaller urban local authorities, eg borough councils, city councils and outer London boroughs, tended to have a mixed portfolio of work, with a focus on domestic and small commercial work, although some had growing HRB needs. Professionals in these organisations tended to believe that they were adequately resourced to service their local area but admitted to feeling stretched at times. They were somewhat fearful about the possible impact of future changes to their HRB workload and of being subject to sanctions if they failed to meet KPIs.

Suburban/rural local authority

Smaller suburban or rural borough councils generally reported conducting a high proportion of domestic work, with few complex or HRB schemes. Professionals in these teams tended to perceive themselves as being under-resourced to service their local areas. They were also most fearful about the future, especially around their organisation's ability to meet KPIs and what registration would mean for individuals.

Shared service

Those services in which local authorities shared building control services tended to take on a mix of types of work, although this was highly dependent on the areas they served. Professionals in these organisations felt they were adequately resourced to service their catchment area – and that their situation was more secure due to the sharing of services, compared with individual local authorities. They were generally confident about the future, given their relative optimism around resourcing and limited focus on HRBs.

Large Approved Inspector

These Approved Inspectors were often HRB specialists operating nationally, sometimes as part of a broader developer/warranty company. Professionals perceived their organisations to be well-resourced and were not concerned about the future as such, as they believed their businesses to be highly adaptable. However they were mindful of perhaps having to leave the HRB market if their access is restricted in the future.

Specialist Approved Inspector

There was a cluster of Approved Inspectors in the sample who perceived themselves as offering a specialist service but were smaller and more diversified than the large firms. Professionals tended to feel that their resourcing was adequate to service their business needs. They were particularly concerned about potential limitations to their access to the HRB market and how this might affect their business – and system capacity – in the future.

Small Approved Inspector

These Approved Inspectors comprised small teams based in a single geographical area. Some had actively chosen non-HRB/domestic work to simplify their business. Professionals working in these teams felt adequately resourced to service their business needs. They were relatively sanguine about the proposed changes and felt that remaining as small non-HRB 'generalist' companies could help to limit the impact of the Bill on them.



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